

NYPL RESEARCH LIBRARIES



3 3433 08234470 0

Handwritten text, possibly a signature or initials, located at the bottom center of the page. The text is faint and appears to be written in white or light-colored ink on a dark background.



Digitized by the Internet Archive  
in 2007 with funding from  
Microsoft Corporation













*Jos. P. Bradley*



In Memoriam.

---

JOSEPH P. BRADLEY.

---

THE PRESS OF  
ALLEN, LANE & SCOTT,  
PHILADELPHIA.

---

## CONTENTS.

PROCEEDINGS OF THE BAR MEETING OF THE SUPREME COURT.		PAGE
Remarks of Mr. George Gray, Chairman . . . . .		5
Appointment of Committee . . . . .		6
Resolutions reported by Committee . . . . .		7
Remarks of Mr. Cortlandt Parker . . . . .		8
"    "    George Harding . . . . .		17
"    "    A. Q. Keasbey . . . . .		25
"    "    Samuel Dickson . . . . .		31
"    "    Jonathan Dixon . . . . .		35
"    "    R. C. McMurtrie . . . . .		37
"    "    John G. Johnson . . . . .		37
"    "    Morton P. Henry . . . . .		39
PROCEEDINGS IN THE UNITED STATES SUPREME COURT.		
Presentation of Resolutions and Address by Attorney-General		
Miller . . . . .		41
Reply of Chief Justice Fuller . . . . .		49
PROCEEDINGS OF THE CIRCUIT COURT OF APPEALS FOR THIRD CIRCUIT.		
Resolutions . . . . .		52
Reply of Judge Acheson . . . . .		53
PROCEEDINGS OF THE CIRCUIT COURT FOR THE FIFTH CIRCUIT.		
Resolutions . . . . .		55
Remarks of Judge Billings . . . . .		57

PROCEEDINGS OF THE BAR OF THE STATE OF NEW JERSEY.		PAGE
Resolutions . . . . .		59
Remarks of Judge Depue . . . . .		59
"    "    Mr. Theodore Runyon . . . . .		60
PROCEEDINGS OF THE BAR OF THE STATE OF DELAWARE.		
Resolutions . . . . .		64
Remarks of Mr. Thomas F. Bayard . . . . .		65
"    "    William C. Spruance . . . . .		68
"    "    E. G. Bradford . . . . .		71
"    "    George H. Bates . . . . .		72
"    "    Samuel A. MacAllister . . . . .		74
"    of Judge Wales . . . . .		75
OBSEQUIES . . . . .		77
Address of Prof. Charles E. Hart, D. D. . . . .		78
ADDENDA.		
Address of Justice Bradley before the Law School of the Uni- versity of Pennsylvania . . . . .		85

PROCEEDINGS IN THE SUPREME COURT OF  
THE UNITED STATES.

SATURDAY, February 6th, 1892.

The Bar of the Supreme Court of the United States and the officers of the Court met in the Court Room in the Capital at twelve o'clock, and the meeting was called to order by Mr. J. Hubley Ashton, on whose motion Mr. George Gray was called to the Chair and Mr. James H. McKenney was chosen Secretary.

On taking the Chair Mr. Gray said :—

*Gentlemen of the Bar of the Supreme Court :*

We are met to-day to express our sorrow at the death of our distinguished brother, the late Mr. Justice Bradley, and to make some public demonstration of our respect and affection for his memory.

His long term of service upon the bench of the Supreme Court, his eminent character as a judge, and his many private virtues, combine to render this an occasion of more than ordinary interest.

It was my pleasure and privilege to know Judge Bradley for more than eleven years as presiding judge of the

Third Judicial Circuit, and I there had an opportunity to observe and recognize the varied learning, the profound erudition, the remarkable intellectual activity, and the love of justice that characterized his judicial career, of which his opinions, through more than sixty volumes of the Reports, are enduring monuments.

These high qualities will give him an enviable place among the illustrious names that adorn the annals of the great tribunal of which he was a member.

Judge Bradley came to the Supreme Bench from a State and from a bar singularly affluent in the best traditions of our profession. How well he maintained their high standard we, their neighbors of the Third Circuit, can abundantly testify; and it is for this purpose that I have availed myself of this opportunity to utter these few words of inadequate eulogy. We revered and admired him while living; we sincerely mourn his death. I will not delay longer, gentlemen, the proceedings of this meeting, and now await your pleasure.

Mr. George Harding moved that the Chair appoint a committee to draft suitable resolutions, which motion being agreed to, the Chair appointed the following-named committee:—

MR. GEORGE F. HOAR, *Chairman*;  
MR. GEORGE HARDING,  
MR. CORTLANDT PARKER,  
MR. J. HUBLEY ASHTON,  
MR. THOMAS J. SEMMES,  
MR. JOSEPH H. CHOATE,  
MR. JOHN T. MORGAN,  
MR. JOHN B. HENDERSON.

The committee, through Mr. Harding, reported the following

RESOLUTIONS.

*Resolved*, That the members of the bar of the Supreme Court of the United States desire to record their sense of the loss that has come to the profession and to the nation in the death of Joseph P. Bradley, justice of this court.

He brought to the bench long experience, great energy, strong and patriotic convictions, a scholarship as wide and varied as it was thorough and exact, and an unyielding courage. He was at the same time one of those rare characters in which vast learning is united with intense activity and business capacity ; a master of men as well as books, practical as well as theoretical.

During his long service here he has more than done every duty, growing constantly in his work and in the regard of his fellows and of the nation, until, in the fullness of age, rounded and softened by years of judicial duty, gentle scholarship, and labor for the people, he has passed away, lamented by the bar, the bench, and the country that he served ; a life complete, with a large place in history among the creators and moulders of our national jurisprudence.

*Resolved*, That a copy of these resolutions be presented by the president and secretary of this meeting to the family of Mr. Justice Bradley, with the sincere sympathy of the profession in their bereavement, and that the Attorney-General be requested to present to the Supreme Court in session the proceedings of this meeting.

## REMARKS OF MR. CORTLANDT PARKER.

I have felt it a duty to be present on this occasion. There is no one living who knew Justice Bradley so long and so intimately as myself. He was my college class-mate for three years, and during most of that time we boarded in the same house. When he began the study of the law I had preceded him a month or two, and he and I were room mates for seven years thereafter. We practised at the same bar thirty years, opponents or associates in many fiercely-fought cases. His call to the bench here severed us, but did not estrange us from each other. Our companionship had to cease. Our intimacy never did. It was hard when he became a judge for us to drop the familiar names by which we called each other. We kept up the brotherhood of our youth till the last.

This being so, it would be strange indeed if I were not here to-day. I have already in our own city, among our younger brethren, said something of his history and character. But here, I speak to the bar of the country; to many entirely ignorant of the man, acquainted only with the judge. They ought to know both, for, in my opinion, remarkable as he was on this bench, he was even more so elsewhere.

His life in its beginning reminds one of that of Abraham Lincoln. He never told me of the straits of his early life. I heard of it from others. They must have been very great. His father had married when he was but eighteen. Probably it was a not over-prudent love match. I knew his mother—a lady of remarkable character and intelligence, and of inspiring presence. Her influence over him was complete; his love for her intense. He was the eldest of eleven children. Their home was a small farm, part, I believe, of the Van Rensselaer manor in the Helderberg



Mountain. All the family, I believe, were born during his minority. It is easy to see that his early life must have been one of much privation.

Like Lincoln in his mania for knowledge and for books, devouring everything in print upon which he could lay his hands, especially fond of arithmetic and algebra, he became famous in his small, humble circle. His only schooling was in the winter village school. When he was about sixteen he was promoted to teach it. His success increased his fame and stimulated his determination to win a liberal education. At last he actually departed from his home, without taking leave of his family or friends, determined to reach New York and there, somehow, earn enough to attain his object. An accident prevented his reaching there the first time. On a later journey while stealing away the Reformed Dutch clergyman of the precinct met him, praised his industry and his success, and offered to teach him Latin and Greek. He embraced this offer with characteristic avidity, and made every use of his opportunity. Very soon, the following autumn, I think, he came to Rutgers College, an institution mainly dependent for scholars upon the Reformed Dutch Church, and entered the freshman class. He had prepared himself for it, too. True, he had read almost nothing. A little book made up from Livy, entitled "Viri Romae," was all his Latin. Three chapters of St. John's Gospel, all his Greek. But the grammars,—he knew them from cover to cover, with a completeness which made translation easy.

I met and was introduced to him the day of his arrival. Lincoln himself in his early youth was not much stranger in *personnel*. His doting mother had made every garment that he wore, the wool from the sheep on the farm.

He boarded, at first, on a farm near two miles from college, and soon rumors what a student he was began to prevail. His reputation was enhanced by his falling sick, for

a time almost desperately, and by stories that it was brain fever from over-work. But he recovered, and in the second year of his college life leaped into my own class—from a freshman becoming a junior. Such a thing had never before happened. There were among us several lads of capacity and ambition. He was a man, twenty-one years old. His new classmates were mainly boys from fourteen to sixteen. He had a purpose—we were but vessels into which knowledge was poured. And so he strode to the front, and with such plain desert that no one was displeased. He crossed no one's path. He was busy getting his education; disciplining his mind. He cared for no honors; sought no applause; cultivated no social clique. He simply sought to learn.

But books, good books, old books, were his passion. Somehow, he found time to learn what these were. He explored the college library completely. There was no treasure there of which he was not informed. And he mastered everything worth mastering. Authors of the Elizabethan age were his peculiar delight. A small *coterie*, of which he was chief, got the *soubriquet* of being "Elizabethan age" scholars.

While first in every department of scholarship, he also devoted himself to the exercises of the Literary society of which he, myself, and others among his friends were members. He became distinguished in composition and debate.

Ours was a small college of not more than eighty students. In my judgment those who were there were none the worse off for its lack of numbers. We were taught by professors, not by tutors. And individuality was better developed.

A struggle occurred between the faculty and our society which had a great deal to do with Judge Bradley's future. We were commanded to rescind some resolutions, of which

the faculty, spite of the fact that we were a secret society, got wind. We would not do it. We said that resolutions of a secret society were no overt act, and that the faculty might as well command individuals to rescind their unexpressed sentiments. The contest was long and bitter. It was carried to the trustees, with whose request, and for the sake of peace, we complied. In this battle Judge Bradley was our leader, and the paper in which he presented our case, its author never known, elicited the wondering encomiums of the distinguished bodies to whom it was presented.

But Judge Bradley displayed traits of character in this controversy which convinced all his friends that the profession to which he then looked was not the profession for him, and that the law was. He was not loth to receive our advice. Opportunity offered itself. A classical school some ten miles away needed a teacher. The post was tendered him, the faculty giving him a diploma without requiring the last term's study from him. He gladly accepted it, giving up, of course, the first honor, which, had he remained, he must have won.

His success in this school almost made him a professor. His pupils idolized him. He taught them to think, and to love to think and understand. He was so thorough, so simple, so clear. And he made them his companions, too, and won their affections wonderfully.

But he had three special friends among his classmates, who, when they graduated, studied law—one in New York, two, of whom the late Secretary Frelinghuysen was one, in Newark. We were anxious that he should join us, in one place or the other.

An opportunity presented itself. The Collector of the Port of Newark was a lawyer. He told one of us one day that he needed an inspector of customs to whom he could give a salary, small but sufficient for his support, and that

he would receive him into his office as a student at law. The communication of this brought Judge Bradley to Newark, and he was soon established there. In three years more he was admitted to the bar, and began a struggle for practice. It was in 1839. The terrible panic of 1837 had all but ruined our city. There was no one worth suing. There were no contracts making—no sales of land. Everything was well-nigh stagnant.

It was a hard time for us, indeed. Mr. Frelinghuysen had succeeded to his uncle's practice, and his progress upward was rapid. Not so with Judge Bradley, but he had the good fortune to form a partnership with an influential gentleman, the clerk of the county, through which business came, which Judge Bradley alone transacted for their joint profit. Then Mr. Frelinghuysen employed him quite frequently to aid *him*. In a few years he married. And then his practice sensibly increased. But his early years at the bar were years beyond doubt of much pecuniary want.

To help along, he became the legislative correspondent of the then, as now, leading newspaper of the State, the *Newark Daily Advertiser*. This involved little absence from practice and extended his acquaintance among leading men. His communications were widely read, their author became known, and their good sense and literary ability increased his reputation.

About this time great opposition occurred to the Camden and Amboy Railroad Company—odious as an asserted monopoly; and believed, wrongfully, as I think it turned out, to have been unfaithful to the State as one of its stockholders. To allay the excitement which arose, the company selected three citizens of the highest repute for integrity and capacity and submitted its books to their examination. This board selected Judge Bradley as its clerk. He possessed minute and practical knowledge of book-

keeping, and became soon thoroughly familiar, more so than any of its employés, with all the affairs of the corporation.

The report of these gentlemen intensified the excitement. They were christened the Whitewashing Committee, and their well-earned lofty character was no shield against the most cruel animadversions. The legislature would have nothing to do with their report, but appointed a committee of their own, with instructions to fathom all the supposed iniquities which were thought to be concealed.

Thus put on their defense, the corporation chose Judge Bradley as their counsel. He spent months in this service, and triumphantly. And such was the reputation he thus acquired that he was made the regular counsel of the corporation, and soon after one of its directors. He was thus set upon the pathway to fortune and professional fame. He retained this place, and was the counsel of the United Canal and Railway Company and one of their most influential directors when he was selected to fill the place from which death has taken him.

This position, and the thorough knowledge of the law which his habits of severe study had given him, and with his possession of which the community soon became acquainted, gave him a large and lucrative practice of a varied character, the exhausting nature of which induced him, so he said, to look to the bench as a means of extending the period of his life.

I am not sure that he was not right in this. His constitution in early life was frail. On at least three occasions, within my own knowledge, he was in great peril. And while he probably depreciated, until experience taught him, the severity of the labor required of the members of the Supreme Court, he escaped there the worry which so much exceeds work in its injury to vitality.

His practice at the bar, as I have said, was a very varied one. On four occasions at least, as I remember, he defended parties accused of homicide, and he appeared in other criminal cases. But that branch of litigation was certainly neither his *forte* nor one that he desired. In real estate matters, patents, will cases, corporation cases, constitutional cases, matters of contract, and civil actions in *tort*; in fine, in every sort of litigation he had a large share. There were certainly very few causes of importance in which, on one side or the other, he did not appear. Secretary Frelinghuysen throughout his practice frequently called him to his aid, and the two together were not easy to match—the one distinguished in every art of forensic skill and for winning eloquence, the other for knowledge of the law and skill in its application, while both were famous for pugnacity and persistence.

The reports of the Supreme Court since he was a member show, and the profession throughout the country acknowledge and admire, the depth and breadth of his legal knowledge, his clear apprehension and statement, his clean-cut logic, his power of lucid exposition, as well as his unswerving pursuit of the right as he regarded it. He has established, far and wide, his reputation as a great judge. But those who knew him best, in my judgment, will speak with more wonder of his acquisitions in other departments of thought than the law. I am free to say that it has not ever happened to me to meet a man informed on so many subjects entirely foreign to his profession—and informed, not slightly or passably, but deeply—as it seemed, thoroughly on them all. Literature, solid or light, in poetry or prose; science; art; history, ancient and modern; political economy; hieroglyphics; modern languages, studied that he might acquaint himself with great authors in their own tongues; the Hebrew and kindred tongues that he might perfect himself in Biblical study;

mathematics, in knowledge of which he was excelled by few—all these were constantly subjects of his study. How he found time for all he did his friends could never comprehend. But his powers of comprehension and acquisition were most remarkable, and his memory of facts and doctrine was simply a wonder. Whatever he read became at once his property, and remained so, to be called up for use whenever required.

His talent as an advocate was great, not especially in merely fact causes, but upon questions of law ; and before a bench, right or wrong, he was among the most formidable. And his shrewdness in management, both in strategy and tactics, became, in time, very distinguished.

His special intellectual distinction was thoroughness. He was never satisfied till he had gotten to the very bottom of every subject to which he devoted himself. In college and while studying law he studied topics, not text-books. I doubt if he ever read a treatise consecutively through. He used text-books to aid him, but he adopted no man's opinions as such. If he had a fault as a lawyer, perhaps as a judge, it was, I think, that he feared to worship the doctrine of *stare decisis*. I do not mean that he abjured that doctrine ; far from it. I mean only that he thought there might be an abject submission to what had been established as law, and so was readier than many to follow the right as he understood it, the opinions of others to the contrary.

He was not generally an eloquent speaker, though earnest, and often impassioned. He was clear, orderly, and lucid. Once, in the defense of a murder cause, in which he and I were together, he displayed talent as an orator for which I had never credited him. He was like Webster in weight of thought and in solemnity of diction.

What he was upon the bench I shall leave to others to say. It was with pride that we all in New Jersey saw,

soon after he took his seat, that he, only the second man who for a century has been called to the United States Supreme Court from our bar, was so eminent and so appreciated. True, he was born in New York ; but his education and his legal equipment were in New Jersey. We are rather proud, let me confess, that we have given to the highest American tribunal Judge Paterson and Judge Bradley.

As an associate and a friend he was always kindly and manly. He practiced no popularizing arts, yet he was always glad to do a kindness. He did not forget his own interest, but he invaded no one's rights. He loved to be hospitable. He did not forget early friends. Over the mantel in the room he mostly occupied there is a multitude of photographs, likenesses of the friends of his youth ; proof of the tenacity of his affections.

This is no place to dwell on his character in domestic life. It is not wrong to say, however, that all allied to him have occasion to mourn him as a useful and steady friend and helper.

He was a patriot ; in doctrine a nationalist. In the dreadful days of our civil war, through his connection with the New Jersey Railroad Companies, he was, at the early crisis of the war, when the question of transportation of troops to Washington was vital, of much more service than the world in general knew. And throughout the struggle he was a power for good to the country.

One thing more I add. He was a Christian, a lover and a student of the Bible, decided in his support of the Christian Church. His failings in the Christian life (for who of us is perfect ?) were as much eccentricities as faults. In every substantial respect he sought to do his duty.

Pardon the extent to which my long-lived friendship has extended these remarks. His departure leaves me very much alone. And yet I can scarcely mourn him. A life



of nearly four score years, full of usefulness, full of honor, leaving behind him in sixty volumes of reports proofs of his wisdom, his erudition, his love of right and of justice, his loyalty to the Constitution and the nationality it created—of men who finish such a life, it may be said, with exceeding truth and force, “They rest from their labors and their works do follow them.” The voice of the great judge never dies. From age to age we hear and obey it. Is Marshall dead? Is Taney? Is Chase? Is Story? Are their compeers? Not so. Not so. They speak, and with authority—authority, in the case of some of them, increasing as the years roll on. They depart, indeed, but on earth, as in the far Beyond, they are immortal.

This immortality, throughout the lifetime of law in this greatest of republics, will Joseph P. Bradley, the farmer’s boy of the Helderberg, enjoy—immortality as an example to every lad that shall live upon our soil of what may be attained by resolution, energy, self-reliance, love of work, love of usefulness, and love of duty, and by that industry and integrity which these qualities of true manliness inspire.

And now, brethren of the bar, let me say my word of parting to my friend—friend of my youth, my manhood, my later years—gone before to fathom the mysteries and enjoy what God gives to those “not dead but sleeping,” to whom, I hope and believe, death is life—“*Vale! Vale! atque salve!*” Farewell! Farewell! And yet, all hail?

#### REMARKS OF MR. GEORGE HARDING.

Before his accession to the bench it was my privilege to have an intimate acquaintance with Justice Bradley, which continued until his death.

Justice Bradley presented a combination of dignity of character with great simplicity. While upon the bench

he was a model of judicial deportment. He never, either in the Supreme Court or in the circuit, condescended to levity or familiarity. He was always a patient and attentive listener. He rapidly appreciated every subject or point presented. He instantly detected fallacy and yielded his judgment as promptly to sound logic. He was thoroughly impartial in his manner and wholly uninfluenced by personal attachments or sympathy. The inexperienced and unknown, and the able and renowned, advocate received from him like attention and consideration.

He assumed to himself no intuitive power of perceiving which side of a case should, on the whole, prevail, in advance of full argument. On the contrary, he maintained his judgment in complete suspense until both sides had been fully presented. After argument he retired to his library and examined the records and briefs patiently before arriving at a decision. He was accustomed oftentimes to prepare an outline of an opinion which he laid aside temporarily in order to return to it again after an interval, to criticise his own work and to see if he was still satisfied with the conclusion reached and the reasoning on which it was based. It is known to his associates that not infrequently after preparing this written outline, his own criticism thereon induced him to change his conclusions and rewrite a new opinion adverse to his first draft. These outlines or draft opinions he called his "studies."

Whenever his mind was engaged in reflection upon any subjects outside of the law, he in like manner reduced his temporary reflection to writing in the form of the so-called "studies." It afforded great pleasure to his intimate friends to have him take down his book of "studies" and read therefrom some recorded train of thought thus evolved by him. He would recur to these "studies" long after they were written and modify them by his subsequent

reflection. When he had arrived at a final decision in any case argued before him, he displayed the highest courage in asserting and maintaining his conclusions. Judge Bradley's mind exhibited the result of a combination of thorough mathematical and classical training with a legal training, under a separate system of equity and law, as still preserved in the State of New Jersey. When he emerged from college he was equally proficient in both mathematics and in Latin and Greek. When he left the bar for the bench he was a fully trained common-law lawyer and a counsellor in chancery. After he was assigned to the Fifth Circuit he made an exhaustive study of the theory and practice of civil law, and thoroughly mastered it. In his opinions, the precision and close reasoning due to mathematical training may be observed, united to a clear comprehension of the line between legal and equitable jurisdiction and relief, and the peculiarities of the civil law. As an illustration of the extent to which his mathematical training pervaded his mind, I may mention that in his last conversation, a few days before his death, in speaking of Burton on Real Property he said, "The book reminds me of Euclid."

When off the bench he was simple and unassuming. He enjoyed free intercourse with the young and unlearned. On his vacations he would spend hours with farmers and laboring men, conversing about matters which most interested them, instead of with those who might have adulated him for his learning and high judicial position. He sedulously avoided all occasions where social attention and display would have been thrust upon him. It was these lovable qualities which made him the object of so much and such widespread affection from all classes of the community. He indeed at times displayed ebullition of feeling, such as many men of genius have done before; but in his case it quickly subsided, and the deep regret, which he

promptly expressed for not having controlled himself, endeared him all the more to those who had encountered it.

He had great happiness in the companionship of his books. He had amassed together many valuable and rare works, and he reveled in his literary wealth. When he visited the circuit he spent most of his leisure in hunting among old collections. The wisdom of Shakespeare and the massive style of Bolingbroke were favorite topics of his conversation.

Of Judge Bradley's qualities it may certainly be said that, as a lawyer and as a judge, his honor and his integrity were not only above impeachment or imputation, but beyond the thought of it. He was kind in principle and heart. In this connection I may advert to the cruel and unjust aspersions cast upon him by reason of his action in the *Legal Tender* cases. The first decision against the constitutionality of the *Legal Tender Act* was rendered by a majority of five to three of this court on the 7th of February, 1870. Mr. Bradley's nomination was prepared by President Grant, on the 5th of February, and transmitted to the Senate on the 7th of February, actually prior to the reading of that decision in court. Those, therefore, who censured Judge Bradley and the Executive implied that this court had improperly communicated its decision in advance to the Executive, and that the Executive and Mr. Bradley had entered into a compact that if appointed he would vote to reverse that decision. The simple statement of dates I have recalled to you is sufficient to remind you how false and slanderous were the charges that the appointments of Judges Bradley and Strong were intended to secure a reversal of the decision of the court upon the *Legal Tender Act*.

Judge Bradley, in delivering his able opinion in that case, concurred with Justices Miller, Davis, Strong, and Swayne and with fifteen of the Supreme Courts of the several States, while the contrary doctrine had been maintained by only

one State Supreme Court—that of Kentucky. That decision, moreover, was contrary to and reversed the decision of the eminent Chancellor of Kentucky.

Aspersions have been attempted to be cast upon Justice Bradley because he concurred with the majority in his decision in the electoral commission. He was called to perform an office which was no part of his duty, and while he was certain his action must expose him to the enmity of one or the other of the two great political parties of the country, he nevertheless patriotically entered upon it and fearlessly performed the duty thrust upon him. Those nearest to him at the time know that while so acting he refused access to himself to all who sought to advise or to influence him, and decided conscientiously according to the dictates of his judgment. Politicians, lawyers, personal friends called to advise him—even a high ecclesiastic called to counsel, and perhaps, pray with him—but to all he was alike inaccessible. He had reached the summit of his legal ambition. His position was secured for life. He had never been a partisan politician. His most intimate, personal friends and admirers belonged to both political parties. What motive of friendship or reward then existed to swerve his judgment? He placed the reasons for his judgment on record, and few of those who have sought to abuse him have troubled themselves to read or reply thereto, but have contented themselves with impugning his motives. He bore the slanders heaped on him by political rancor with dignity and patience, conscious of their falsity and injustice. I mention all this now because the occurrences are within my recollection and I think they should always be remembered in this connection.

In his opinions on questions of constitutional law Justice Bradley has placed himself in the very first rank of the eminent men who have adorned the Supreme Court. It is sufficient here to remind you of his opinion on the powers

of Congress in reference to civil rights under the thirteenth and fourteenth amendments to the Constitution (civil rights cases, 109 U. S., 3); of his opinion on *habeas corpus* and the power of the Federal Courts to issue the same (*ex parte Parks*, 93 U. S., 18, *ex parte Siebald*, 100 U. S., 371, *ex parte Clark*, *Id.*, 400)—of his opinions on the boundary between State and Federal power in cases affecting interstate and foreign commerce; (*Transportation Co. vs. Parkersburg*, 107 U. S., 702; *Brown vs. Houston*, 114 U. S., 622; *Walling vs. Michigan*, 116 U. S., 406; *Coe vs. Errol*, *Id.*, 517; *Robbins vs. Shelby Co.*, 120 U. S., 489; )—of his opinion on the unconstitutionality of seizure of private papers in criminal and penal cases: (*Boyd vs. U. S.*, 116 U. S., 616; )—of his opinion on the right of the Federal Courts to construe State laws: (*Burgess vs. Seligman*, 107 U. S., 20).

By reason of his eminent scientific and mechanical attainments and his wonderfully quick perception, combined with a habit of patient attention, he was well fitted to investigate and decide questions arising under the patent law. In that branch of law, as a judge, he has never been surpassed, if he has been equaled. No matter what department of the arts was involved—mechanics, chemistry, electricity, or steam engineering—he *mastered* the subject. He fully comprehended the true philosophy of the patent law itself. By the now famous opinion he delivered on the law of reissues he revolutionized the recognized practice under this branch of the law. He there demonstrated that the true construction of the patent law authorized no alteration in the specification of an existing patent unless promptly made and for the purpose of correcting a real *bona fide* mistake inadvertently committed, such as a Court of Chancery, in cases within its ordinary jurisdiction, would correct. This decision ended forever the practice of reissuing patents in the hands of speculators to cover

inventions made by subsequent inventors and not contemplated by the patentee himself, and thus removed the greatest stigma upon our patent system.

So, again, by his opinion in the fat acid and glycerine case, he demonstrated that the true spirit and intent of the patent law was to secure to the inventor of a new application of a principle to effect a useful purpose, a monopoly of the application of the principle, instead of limiting him to the special means which he had described in his specification—reversing a prior decision of this court. We cannot but feel that it was to him largely that the American patent law is indebted for these and many other contributions.

During the first ten years that he was on the bench he never omitted visiting every part of the Fifth Circuit (extending from Florida to Texas) during the heat of the summer recess of the Supreme Court. After he was transferred to the Third Circuit he continued faithfully to visit that circuit in each year. His last act was to preside at the organization of the Court of Appeals for that circuit.

Mr. Justice Bradley was always at work. He sought recreation, like Franklin, not in idle rest, but in variation of occupation. His favorite amusement in the summer vacation was mathematics—surveying, algebra, and astronomical calculations. I remember especially one summer vacation in the mountains that he amused himself by determining the true meridian line by a new set of observations planned by himself. He worked at it industriously at night by the aid of the stars, and when he had fixed the line with great accuracy, it was cut into the solid rock, and there, upon the mountain summit, it will be hereafter known as Bradley's Meridian Line.

I desire to repeat his own account of an incident in his early life which may perhaps interest you. Justice Bradley, while walking near the banks of the Hudson River, pointed

to the old steanboat landing at Catskill, and said to me : "An incident occurred there when I was a boy which determined my career in life. While working upon my father's farm I received a letter from New York informing me that a New York grocer wanted a young man in his store and that I could have the position. I packed my clothes and walked to the Catskill landing, intending to take the steamboat on its way from Albany to New York. It was late in the fall, and during the preceding night a thin layer of ice had formed around the pier and extended out into the river. The steamboat approached the wharf, but the ice interfered with its landing. The boat backed out and made a second, and then a third, unsuccessful attempt at landing. Then the captain waved his hand to those on shore, and the boat pursued its course to New York. I knew it was the last trip of the boat for that season. I turned away, sad and disappointed. I felt that my prospect in life was gone. I walked into the little inn and sat down to reflect what I should do. While I sat there, despondent and gloomy, the dominie of the village came in. I told him of my disappointment and that my future was dark. He said : 'Come with me and I will find some work for you about my place, and you can study at night, and at odd times, under my direction.' I picked up my bundle and accompanied him home. By night I studied the few books he had, and in the day I made myself useful to him. He directed my thoughts to studying Latin and Greek and preparing for the ministry, and so it came out that I was afterwards sent to Rutgers College. On how little a thing," he said, "a man's career in life depends. If the boat had reached the wharf I should have been a grocer's clerk, and probably a grocer."

Those only who have had the privilege of an intimate friendship with Justice Bradley can estimate its value. His predecessor, Justice Grier, admired and respected him



for his ability and loved him for his personal qualities ; and when he tendered his resignation, it was accompanied with a most earnest request to the President that Mr. Bradley might succeed him. The consciousness that he was successful in attaining this wish was a source of comfort to him during his remaining life.

The devoted attachment of the bar and citizens of New Jersey was demonstrated in the immense throng of citizens, who, with sorrowing hearts, filled the old Dutch Church at Newark at his obsequies. The lifelong friendship which subsisted between him and the late Secretary Frelinghuysen and Courtlandt Parker, through all the rivalry of college and the contests at the bar, is known to you all. Justice Bradley was as great as a friend as he was as a judge.

---

#### REMARKS OF MR. A. Q. KEASBEY.

I knew and honored Mr. Justice Bradley for nearly half a century. He was my friend throughout my whole professional life—at the bar of my State and through his service on this bench. Few knew more intimately the traits of his character, and none can appreciate more fully his personal qualities, his great and varied learning, his logical power, his mastery of language, his grasp of fundamental truths, his knowledge of jurisprudence in its widest sense, his broad views of constitutional law and the relations of our complex governments, his wisdom in great matters of national policy, and his courage in expressing his convictions. And few have better reason to remember the gentler graces of his character, his ready kindness and sympathy, and the hospitalities of his home—or more cause to deplore his loss.

But of all these I will not speak here in this scene of the illustrious labors of his later years. It has been the

habit of men to suppress personal emotions in doing honor to soldiers dying on the field in the discharge of military duty, and to exult rather than mourn, declaring, with Horace, that it is sweet and decorous to die for one's country. And surely when we come to pay our tribute to the memory of one who, after reaching the age of fifty-seven, devoted twenty-two years of his life to such high service as he was enabled to render—dying at last in the fullest ripeness of his powers—we may almost forget our grief in admiration for his achievements and gratitude for the fruits of his labors.

Let me therefore speak of him in his victories of peace, as we do of the heroes, not in the accents of mourning, but in tones of exultation for the service he has been permitted to perform for his country.

The judge, so long as the heart of a State is sound, is always an object of honor. The man whom Sir Philip Sydney called, "The indifferent judge between the high and low"—the judge whom no king can corrupt—the final arbiter of private interests and the vindicator of personal rights, is always a commanding and interesting figure. But the judge who sits here, with the powers conferred by our judicial system on this unique tribunal, of which the keenest foreign observer declares that, of all our institutions, few are better worth studying, few deserve more admiration or have more contributed to the peace and well-being of the country—a judge clothed with power to expound the written constitution of a great nation, thus shaping its destiny by moulding its organic law—to guide a complex system of State governments in harmony with a supreme central power—to control by a few words quietly spoken in this chamber the political storms that threaten to wreck the State, and to hold with a firm and impartial hand scales of justice in which the most momentous public interests must be weighed—such a judge as this has a work

to do which, when well done, and not untimely ended, may well beguile us to remember no more our sorrow, and express only our gratitude and admiration for a faithful servant of the State in peace, as we do for soldiers in war.

To this work Mr. Justice Bradley brought the rich maturity of his powers, the fullness of his stores of learning, and the weight of his personal character, at a time when a turning point in the history of the country had been recently passed and the gravest questions of its policy were demanding solution.

I cannot, in the few words I may say here, attempt even to sketch the part he took in that work. He was fully equipped for it, not by any judicial experience, but by great acquisitions of learning, by a wide range of professional experience, and by participation in important practical affairs. And, therefore, conscious of his powers, he entered upon it with alacrity, as congenial to his nature and training. I was with him when a telegram announced his confirmation, and I knew that he went out to his post with a soldier's joy of the contest, welcoming the larger duties which his new field afforded. Only four of all who preceded him were more advanced in years at the time of appointment, but it is a subject of national congratulation that only fourteen of the entire body of fifty-three men who have composed the court since its organization exceeded him in length of service, including one who still adorns the bench, and whose eulogy for his great share of its work will, I trust, be long delayed.

When Mr. Justice Bradley assumed his duties at that ripe age he was equal to the work in all its wide range, from the pecuniary controversies of individuals to the largest issues affecting the foundations of government.

But there were some branches in which he took especial interest, and in which his acquirements and habits of mind gave his efforts especial value. In these he rendered

services whose influence upon the future of the country can never be effaced. In matters of admiralty, in the judicial development of the patent system, in the difficult department of civil rights under the amendments to the Constitution, in questions of Federal jurisdiction and the construction of the Federal Constitution and Statutes, his powers of mind and his practical wisdom were signally manifested.

I wish to refer to one only of these important fields of his labor—that which concerned the working of our Federal system. He felt, to the fullest extent, the significance of this branch of his duty. He knew its far-reaching influence and spoke of it to me in our last interview, reviewing his work with a painful consciousness that it was almost done.

To men of his mould age may bring lassitude as to matters of transient interest—the drudgery of the bench—but as to labors which concern the permanence of our national system and the future well-being of the country, the unimpaired mind struggles to lift itself free from the burden of failing physical powers.

He rejoiced in such labors to the end. It is understood that he dropped his pen at last in the midst of an opinion maintaining the power of the national legislature to refuse the agencies of the Government to a service injurious to the moral welfare of the people.

I wish it were possible for me in a few sentences to give even a bare outline of the import of his judicial labors in this one branch—the relations of the State to the Nation. But it would require a power like his own. Indeed, I can, perhaps, better portray the spirit and meaning of his efforts in this branch of his duty by using some of his own words.

In one of his earliest opinions, December Term, 1870—a dissenting opinion—he said :—

“ It is the common government of all alike. \* \* \*  
I cannot accede to the doctrine that the General Government

is in any sense foreign or antagonistic to the State governments, their officers or people. Nor can I agree that a presumption can be admitted that the General Government will act in a manner hostile to the existence or franchises of the State governments, which are constitutional parts of the system or body politic forming the basis on which the General Government is founded. \* \* \* I am as much opposed as any one can be to any interference by the General Government with the just powers of the State. But no concession of any of the just powers of the General Government can be easily recalled.”

Here, at the outset, he touched the keynote of the strain which sounds throughout all his judicial utterances on this subject.

Again, soon afterwards, he said :—

“A citizen of the United States has a perfect constitutional right to go and reside in any State he chooses, and to claim citizenship therein and an equality of rights with every other citizen, and the whole power of the nation is pledged to sustain him in that right. He is not bound to cringe to any superior or to pray for any act of grace as a means of enjoying all the rights and privileges enjoyed by other citizens.”

About ten years afterwards he declared, in the tone of exhortation rather than judgment :—

“Let a spirit of national as well as local patriotism once prevail, let unfounded jealousies cease, and we shall hear no more about the impossibility of harmonious action between the National and State governments in a matter in which they have a mutual interest.”

And again, after the lapse of eight years, he said, in dealing with the subject of interstate commerce, in which he had always taken profound interest :—

“The power of Congress is supreme over the whole subject, unimpeded and unembarrassed by State lines or

State laws. In this matter the country is one and the work to be accomplished is national, and State interests, State jealousies, and State prejudices do not require to be consulted. In matters of foreign and interstate commerce there are no States."

These words of his reveal the spirit in which he dealt with these great subjects. They indicate the lines of force in which his faculties were directed in those matters so vital in the working of our Federal system.

May I not claim, without approaching any field of political controversy, that his services in these lines, during more than twenty years, have redounded to the stability and glory of his country? Is not the United States of America more proudly and permanently "one country" amongst the nations of the earth by reason of his labors? Have not State jealousies been assuaged and State prejudices subdued and State interests made one with the interests of the nation, by quiet, irresistible forces set in motion, in no small degree, by him? Is not every American citizen more free to pass through all this land without cringing to any superior or praying for any act of grace, through immunity which he helped to give? Has not the march of this Republic to the front rank of civilized states, during the last quarter of a century, been impelled and sustained by the words he has spoken here from year to year?

And finally, taking the whole scope of his judicial action, and recalling his part in that remarkable tribunal which held popular passions in check while it adjudged the great question of the title to executive power, may we not claim for him no small share in teaching that lesson, which mankind must some time learn, however painfully, that the arbitrament of war is barbarous, and that—

A peace is of the nature of a conquest,  
For then both parties nobly are subdued,  
And neither party loser.

If so, we may well do him honor, now that his words may be spoken no more. For myself, I am proud that the bar of my State and city gave him to the service of the country, and putting aside all expression of personal sorrow, I pay my tribute to him as one of the wisest, ablest, and most upright of the members of this tribunal, upon whose continued wisdom, ability, and uprightness the future of the country in a great measure depends.

#### REMARKS OF MR. SAMUEL DICKSON.

MR. CHAIRMAN:—The work of Mr. Justice Bradley as a member of the court of last resort was, of course, his most important and enduring work ; and the opinions delivered by him will long serve as beacon lights of the law to enlighten and guide those engaged in its practice or exposition. But it was while serving upon the circuit that he best displayed what manner of a lawyer he really was. As a rule, he disposed of the cases which there came before him at the close of the argument, or filed an opinion at the next session of the court ; and he seldom, if ever, left Philadelphia till every case had been decided.

It would be difficult to exaggerate the impression produced by his visits. The variety, the extent, and the accuracy of his learning, the quickness of his perception, and the certainty of his judgment, made his dispatch of the list a most interesting exhibition of intellectual power and resource, even to those not immediately engaged as counsel. The well-known remark of Bacon found in him both confirmation and illustration. Reading had made him a full man, conference a ready man, and writing an exact man. Only the specialists in patent and maritime law could fully appreciate his merits in their particular

lines of study ; but it is probable that with us the general practitioner was most struck with Judge Bradley's familiarity with the forms as well as the principles of equity, and with every phase of the law of corporations. Coming, as he did, from a State which has always maintained a separate Court of Chancery, he had an easy mastery of the principles and proceedings in equity never surpassed, if equaled, in this country. In this connection it may be interesting to note that his reference, in *Thomson vs. Wooster*, in 114th U. S., to the first edition of Daniell's Chancery, as the only edition exhibiting "the present practice of the High Court of Chancery in England," alluded to and adopted by the Ninetieth Rule, created such a demand for that edition that it is now almost impossible to find a copy. The most elaborate opinions filed by him in Philadelphia related to the liability of stockholders of insolvent corporations ; but one of the most important concerned the foreclosure of a railroad mortgage. When sitting in the Fifth Circuit he had had large experience in this branch of the law. Nearly every railroad in the Southwest was, at that time, in the hands of receivers ; and it would seem that no question could ever arise concerning the effect or enforcement of railroad mortgages, or the administration of receivers, which had not been considered and discussed by him in the opinions contained in the volumes of Reports, edited by Judge Woods, then of that circuit.

It is well known that immediately after his appointment Mr. Justice Bradley undertook the systematic study of the civil law, and it is the concurrent testimony of the Louisiana bar that he made himself a most accomplished civilian.

The most interesting revelation of himself, however, was furnished in an address, which he delivered before the Law Department of the University of Pennsylvania, in October, 1884, upon *The Office and Nature of Law as the Basis and*



Bond of Society. So far as I know, it can only be found in the *Legal Intelligencer*, of Philadelphia, and it might well be published as a supplement to one of the volumes of Reports of the Court, or of the proceedings of this meeting. The advice given to the students as to methods of study is, obviously, and in part avowedly, based upon his own experience. In treating of the importance of acquiring a correct style, he refers to Mr. George Wood as the greatest forensic speaker he had ever heard, and ascribes the purity and felicity of his style to his habit of memorizing Blackstone. He adds that he had studied Gilbert on Evidence in the same way, and declares that he had derived "as much benefit from that little old book, thus thoroughly learned, as from any other, except, perhaps, Stephen on Pleading." While thus enjoining thoroughness in the study of certain selected books, he emphasizes the necessity of general culture and wide inquiry in every department of knowledge, and he closes with a description of a lawyer, which may well be accepted as a faithful, but not too flattering, portrait of himself:—

"To sum up all in one word, in order to be an accomplished lawyer, it is necessary, besides having a knowledge of the law, to be an accomplished man, graced with at least a general knowledge of history, of science, of philosophy, of the useful arts, of the modes of business, of everything, in fact, that concerns the well-being and intercourse of men in society. He ought to be a man of large understanding; he must be a man of large acquirements and rich in general information; for he is the priest of the law, which is the bond and support of civil society, and which extends to and regulates every relation of one man to another in that society and every transaction that takes place in it.

"Trained in such a profession, and having these acquirements and two things more (which can never be omitted

from the category of qualifications), incorruptible integrity and a high sense of honor, the true lawyer cannot but be the highest style of man, fit for any position of trust, public or private ; one to whom the community can look up to as a leader and guide ; fit to judge and to rule in the highest places of magistracy and government ; an honor to himself, an honor to his kind."

Mr. Chairman, much has been heard, of late, of the probable necessity of compelling the respect of other countries by force of arms ; but in this room, at least, it may be permitted to doubt if the infirm little old man, who lately sat upon that bench and who had for nearly a quarter of a century done his full share, and more than his share, by the constant and unfaltering exhibition of vast learning, assiduous industry, and an enlightened sense of justice, to enhance and enlarge the fame of the Supreme Court of the United States, did not do more to win for this Government and his fellow-citizens the confidence and esteem of other lands than will ever be secured by any demonstration of force, however victorious it may be. That court has often been spoken of as a more than Amphictyonic Council. It has administered justice between the alien and the citizen with steady hand, and it has composed the strife of co-equal States ; and so well has it performed its task, not only in the eyes of the American people, but of all peoples, that within the last twelve months the Queen of England has attempted to bring before it the question of the rights of British ships in the waters of the Pacific, and the Republic of Chile has offered to submit to its arbitrament the question whether it had fulfilled its duty to the Government, of which that court is a part. Such tributes to the learning, the impartiality, and the competency of a court are without parallel in history, and almost exalt it to the position assigned to, but never attained by, the Emperor of the Holy Roman

Empire, whose proudest title was *Imperator Pacificus*, and whose duty it was, we are told, "to preserve peace, and be a fountain of that by which alone among imperfect men peace is preserved and restored, law and justice; to be upon earth the representative of the Prince of Peace and to maintain throughout the world, looking down as from a serene height, that supreme good without which neither arts nor letters, nor the gentler virtues of life can rise and flourish."

Seeing how nearly that ideal has been realized by the tribunal of which Mr. Justice Bradley was not the least illustrious member, it is easy to believe that

Peace hath her victories  
No less renowned than war.

---

#### REMARKS OF MR. JONATHAN DIXON.

MR. CHAIRMAN :—In estimating the character of Justice Bradley we must mark the beginning as well as the ending of his course.

He was born poor; he died rich, with wealth earned by himself. He was born in lowly station; he died at an eminence beyond which the lawyer's ambition cannot soar. The interval denotes the vigor and steadiness of his march.

We must also remember who were his cotemporaries, his competitors without rivalry.

At the bar of New Jersey there were William L. Dayton, William Pennington, Henry W. Green, Abraham O. Zabriskie, Peter D. Vroom, and Frederick T. Frelinghny- sen, names that bring to the heart of every educated Jerseyman a thrill of pride. Besides these, there still survive others, their peers, whose lives and characters New Jersey

cherishes with high regard. Among them all, Bradley was ever found abreast of the foremost.

And while he sat upon this bench, here were Chase and Davis and Miller and their associates, the picked minds of the country.

In your dispassionate judgment was Justice Bradley second to any one?

But the chief of all tributes to his powers is the work which he here performed.

To compass the diversified statutes of these numerous Commonwealths and fit them like well-made garments upon the shapely body of the common law, to sift and weigh the reasonings, sound or sophistical, of the ablest lawyers whom the nation produces; this is the *constant* occupation of the court. But the period of Justice Bradley's service was crowded with *exceptional* labors.

The bankrupt law, the confiscation acts, the far-reaching fingers of taxation, the enfranchisement of the freedman, the restoration to each State of its due autonomy, the adjustment of a political struggle in face of which the Union trembled, the great and rapid strides of the useful arts, the numerous issues upspringing from the guardianship reposed in the Federal Government over the life, liberty, and property of every citizen, and that vast field for legislation and litigation which the immense development of foreign and interstate commerce has opened; from all these sources came a tide of judicial duty which only the strongest could surmount.

To these tasks Justice Bradley brought habits of industry formed by fifty years of unremitting effort, a capacious mind stored with learning from every quarter, a keen and far-sighted power of observation which no suggestion of law or fact could escape, a faculty of analysis that simplified the most complex problems, a judgment which moved to its conclusions with unswerving logic,

an independence born of the consciousness of personal responsibility, a sense of justice that gave to every one his own, and a patriotism that sought the greatest good of all.

Can we wonder that he was equal to his station?

At this station came the end—

*“Hic labor extremus, longarum hæc meta viarum.”*

And now we attempt the words, not of praise, but of appreciation: and if he was such a man as I think him to have been, if I have truly touched his qualities and his achievements, tell me, would not the highest eulogies fall short of his worth?

#### REMARKS OF MR. R. C. McMURTRIE.

In what respect could one have desired that he should have been otherwise than he was, either in character, ability, learning, or conduct? I think this may be fearlessly asked by any one in any place.

Great experience in affairs gave him an inestimable advantage in understanding the real effect of facts, contracts, usages. Great acuteness was tempered and guided by practical wisdom. Quickness of apprehension was coupled with a deferential patience so fascinating to the advocate. And there was then a charm of manner, a high-bred courtesy, which, combined with all that one could desire of the more sterling virtues, made Judge Bradley one of the most conspicuous among those who have served the country in the administration of justice.

#### REMARKS OF MR. JOHN G. JOHNSON.

Justice Bradley's loss is a loss to the nation which, at the time of his death, was his debtor, greatly his debtor, for services he had rendered to it in the administration of the

law—invaluable services, which could not have been better performed.

The opinions he delivered, to be found in so many volumes of the reports of the Supreme Court of the United States, did more than wisely settle the particular controversies which elicited them. They made impossible any future question concerning the points of commercial, maritime, or constitutional law involved therein. Whilst he never went out of his way to say aught which displayed his learning, it shone through every paragraph he wrote.

His decisions belonged to that rare class, those which, whilst they pleased the victor, convinced the vanquished by their demonstration.

His grasp of the cases presented to him for adjudication was instant and was extraordinarily vigorous.

No lawyer, no matter how thorough his research in any particular case, was able to present to him an authority of which he was ignorant, or a principle of law which was new to him.

At the end of an argument, no matter how complicated the questions of law and of fact it covered, he was ready with a judgment, ripe and matured. Whilst his sense of duty made him investigate, and debate with himself, after the discussion had ceased, his equipment was so thorough that such investigation and debate, did little more than enable him better to round the sentences by which his judgment was expressed.

It is rarely that the great advocate becomes a great judge. Those who are familiar with Judge Bradley's career at the bar know that he was the first. The bar of the nation will attest, without dissent, that he was not only a great, but that he was an almost perfect, judge. The explanation of the reason of this success, where so many have failed, is possibly, that he never, as an advocate, advanced arguments which his own judgment condemned as fallacious.

Three men in our generation have died in judicial harness whose names will be as imperishable as the law itself—Jessel, Miller, and Bradley. None have ever lived, in our generation or in the past, possessed of stronger legal common sense, or more gifted with the legal instinct. They knew the law intuitively.

Judge Bradley's mind was filled with an inexhaustible store of legal learning; but, with him, learning never, as it so often does, submerged his common sense. It irradiated; never clouded. He was perfectly equipped, by nature and by study, for the great position he filled and adorned.

#### REMARKS OF MR. MORTON P. HENRY.

I should like to express in a few words the rank in which Justice Bradley's judgments place him as a maritime lawyer. Few men have been his equal, either on this or the other side of the Atlantic. Some of the most important decisions of the Supreme Court were prepared by him. They display his erudition and familiarity with the foreign law applicable to this interesting branch of the law merchant.

The case of *The Norwich Co. vs. Wright* (13 Wallace, 104), in which the construction of the law limiting the liability of ship-owners was first authoritatively made in the Supreme Court and its enforcement declared to be the subject of the exclusive Admiralty jurisdiction, is one of the best instances of his broad and constructive intelligence in giving effect to a new statute. His opinion in this case and in *The Scotland* (115 U. S. R., 24), entitle him to exceptional rank as a jurist. The latter case involved the question whether the owners of an English vessel sued in the courts of the United States could claim the benefit of exemption under the law of the country of the forum. It

involved also a question of the conflict of laws. The conclusion that the foreigner was entitled to claim the benefit of the American law was sustained by Judge Bradley in a masterly decision, in which he refused to follow the English decisions, which had confined the benefit of the English act to their own subjects. His opinion is a model of his mode of thinking on a very difficult subject.

In the opinion, in the case of the *North Star* (106 U. S. R., page 17), the mode of ascertaining the loss, in the case of divided damages between two vessels in collision, was also declared in an opinion of remarkable breadth and precision, in which he again refused to follow the English Court of Appeals in *Chapman vs. The Royal Netherlands Steam Navigation Company*, which reversed the judgment of the eminent Master of the Rolls Jessel.

Few finer judgments appear in the Reports than this carefully-rendered opinion of Judge Bradley, and in the Appendix to that volume in which it is reported it is noted that the House of Lords, since its publication, had reversed the decision of the Court of Appeals, taking the same view as in the opinion of Judge Bradley.

These decisions are marked instances of judicial development of the law of maritime commerce. There are others of great importance, notably that of the *Lottawana* in 21 Wallace, but those quoted illustrate the marked originality as well as the lucidity of his reasoning, in opinions which ran counter to the judgments of courts for which he had a great respect.

It has been the good fortune of the Supreme Court to have on its bench many lawyers well versed in this branch of the law, but none better than Judge Bradley.

After the remarks of the bar (in the order named) the resolutions were adopted, and, on motion of Mr. Ashton, the meeting adjourned.



## SUPREME COURT OF THE UNITED STATES.

MONDAY, MARCH 7th, 1892.

Present :—

The Honorable MELVILLE W. FULLER, *Chief Justice.*

STEPHEN J. FIELD,

JOHN M. HARLAN,

HORACE GRAY,

SAMUEL BLATCHFORD,

DAVID J. BREWER,

HENRY B. BROWN,

*Associate Justices.*

## REMARKS OF ATTORNEY-GENERAL MILLER.

May it please the Court : On the sixth day of February last the bar of this court adopted a memorial which I now have the honor to present :—

“*Resolved*, That the members of the bar of the Supreme Court of the United States desire to record their sense of the loss that has come to the profession and to the nation in the death of Joseph P. Bradley, justice of this court.

“He brought to the bench long experience, great energy, strong and patriotic convictions, a scholarship as wide and varied as it was thorough and exact, and an unyielding courage. He was at the same time one of those rare characters in which vast learning is united with intense activity and business capacity ; a master of men as well as books, practical as well as theoretical.

“During his long service here he has more than done every duty, growing constantly in his work and in the regard of his fellows and of the nation, until, in the fullness

of age, rounded and softened by years of judicial duty, gentle scholarship, and labor for the people, he has passed away lamented by the bar, the bench, and the country that he served; a life complete, with a large place in history among the creators and moulders of our national jurisprudence.

*Resolved*, That a copy of these resolutions be presented by the president and secretary of this meeting to the family of Mr. Justice Bradley, with the sincere sympathy of the profession in their bereavement, and that the Attorney-General be requested to present to the Supreme Court in session the proceedings of this meeting."

These occasions are recurring with painful frequency. In each of the years 1887, 1888, 1889, 1890, and now again at the threshold of 1892, an honored member of this court has been summoned into that presence of inconceivable solemnity, where all must appear at last to answer for duty done or duty neglected. Well may the bar and the court say they are "becoming reluctant to grant these, their last highest honors." Yet neither in length of days, nor in their results, is the end of the life of Justice Bradley untimely. Having passed the limit prescribed by the Psalmist, and "by reason of strength" attained almost fourscore years, all the journey rich and useful in the fruits of his talents, his industry, and his learning, "like the mildness, the serenity, the continuing benignity of the summer's day he has gone down with slow, descending, grateful, long-lingering light," the radiance of the evening giving sure promise of a morning and a morrow of endless brightness.

The oldest of eleven children, of Puritan New England lineage, Joseph P. Bradley was born on a farm in Albany County, New York, on the fourteenth day of March, 1813, and therefore, on January 22d last, the day of his death, was near the end of his seventy-ninth year.

The means of his parents, who at his birth were only nineteen years old, were slender, and the circumstances of his childhood and youth were very hard. The little farm was rugged, almost mountainous, the soil thin and barren. The meagre crops were eked out by cutting wood from the hillsides and burning it into charcoal, which young Bradley peddled about the streets of Albany. But though sore pressed to supply the needs of their fast-growing flock, this father and mother were of the intelligent farmer class, so often ambitious to give their children a better chance than their own, and they did for their boy the best they could. A few months' country school in winter, and a few books, were the foundation on which a great superstructure of learning was built, a foundation which, with all due respect to so-called improved school systems and modern methods, it is believed was all the better for the ambitious boy, because the opportunities were rare and the few books so entirely mastered. In the intervals of necessary work we can imagine this boy, in garments homespun and home-made, every thread and every stitch interwoven with the warmth of a mother's love, slight of form, but full of life and energy, quick of motion and quick of temper, eager and apt in all the sports with his fellows, but even more eager and more apt in the use of his slight opportunities, by book or school, to feed the beginnings of that hunger of the mind which was the spur of his whole life and which to the last was insatiable.

At sixteen this boy, with so few advantages, instead of a pupil became the teacher of a winter school, an occupation continued for four seasons. This was the best possible training, because it necessitated thoroughness. As a pupil one may get along with superficial knowledge. Before one can instruct, he must not merely know, but he must know how and why and for what purpose; he must know not merely facts but principles. At

twenty, entering the freshman class at Rutgers, with a very meagre preparation in Greek and Latin, at the end of the year he had, nevertheless, made such progress as to jump the sophomore and enter the junior class, and was graduated two years later with the late Secretary Frelinghuysen, Governor Newell, and Cortlandt Parker, all eminent in the law and in public affairs.

Mr. Parker says that Bradley was *facile princeps* in his class, though compelled to miss the last term of his course, in order, by teaching, to earn money to pay his way.

Of many incidents of his student life, suggestive of his future character and achievements, time forbids to speak. They all prophesied a man of integrity, of industry, and of notable talents.

Young Bradley does not seem to have been strikingly precocious—was not a genius like Grotius or Hamilton, striding at once to the front of his profession. His first years at the bar, as with most young men, were a struggle; his success and greatness were a growth, the result of days of toil and nights of study. The unfolding of the law to him is admirably described in his own language:—

“As in the creation we may suppose that the light of the stars did not all burst upon man at a single moment, but came upon him from their distant chambers in successive beams one after another, according to their recon-dite stations in space, so in the study of the law one great principle after another comes to the yearning mind and overspreads it with light and gladness; and many long years may elapse before one can feel that he has really mastered the law and fully obtained the ‘gladsome light of jurisprudence,’ spoken of by Lord Coke.”

As a student and as a man a most striking trait of his character was thoroughness. He studied almost everything, and whatever he studied became his own, a part of his very self.

In concluding the address (already quoted from) delivered by him before the students of the law school of the University of Pennsylvania in 1884, an address worthy the pen of Blackstone, Justice Bradley pictured the ideal lawyer as follows: "To sum up all in one word, in order to be an accomplished lawyer it is necessary, besides having a knowledge of the law, to be an accomplished man, graced with at least a general knowledge of history, of science, of philosophy, of the useful arts, of the modes of business, of everything, in fact, that concerns the well-being and intercourse of men in society. He ought to be a man of large understanding; he must be a man of large acquirements and rich in general information, for he is a priest of the law, which is the bond and support of civil society, and which extends to and regulates every relation of one man to another in that society and every transaction that takes place in it. Trained in such a profession and having these acquirements and two things more, which can never be omitted from the category of qualifications—incorruptible integrity and a high sense of honor—the true lawyer cannot but be the highest style of a man, fit for any position of trust, public or private; one to whom the community can look up as a leader and guide; fit to judge and to rule in the highest places of magistracy and government—an honor to himself, an honor to his kind."

Studying his life and its results, one is impressed that this picture was ever before him. By a long life of striving, probably more nearly than any one of his time he attained to that lofty ideal.

Of Sir Thomas More, the first layman commoner to become lord chancellor, and who was wiser than his contemporaries by at least three hundred years, it is said that "he was perfecting himself in most of the liberal sciences, as music, arithmetic, geometry, astronomy, and growing to be a perfect historian." So of Judge Bradley. While the

law was his business and the great study of his life, many, perhaps I should say most, other fields of knowledge were diligently cultivated, not only as recreations, but as auxiliary to his profession. Mathematics, for which he had a special fondness and aptitude, and which he pursued with delight into its most abstruse applications; astronomy, theology, biblical criticism, languages, literature, science, political economy, in short, he seemed to have studied almost everything, and to have made a part of himself all that his thought had touched. Yet wide and profound as were the general researches of this great man, they were only subsidiary to his work in the law. For thirty years he studied and practiced his profession in all its branches with great diligence and great success.

William Pinckney is said to have declared that in his time only two men at the bar of the United States had mastered Coke upon Littleton—Chief Justice Parsons and himself. Indeed, to acquire a thorough knowledge of English and American jurisprudence, as administered in the courts of law, chancery, and admiralty, is a life task, to be accomplished only by large abilities under the spur of high ambition. Add to this a thorough acquaintance with the jurisprudence of republican and imperial Rome, with the Code Napoleon, and generally with the laws of continental Europe, and we approximate the strictly professional resources of this great lawyer and judge. Indeed, to speak the truth of this man's marvelous learning is to invite the charge of exaggerated eulogy. Yet neither in his writings nor in personal intercourse was there any display by Justice Bradley of his acquirements. One was impressed, not with what he knew, but with what he was and what he did. All that he learned enlarged the man; it did not merely add to the load of his possessions.

He was a modest man.

Knowledge is proud that he has learned so much;  
Wisdom is humble that he knows no more.

Nor was Justice Bradley simply a student, a man of learning. He was a practical business man, a man of affairs—a man to be called upon where large business interests were to be handled—a patriot, not only wise in council, but capable, energetic, and efficient in action when the Government was in peril, when troops were to be raised, transportation furnished, and men, munitions, and supplies hurried to the front.

Prior to his appointment to this bench Mr. Bradley never held a public office; yet no man was more active and influential, by word and deed, on the side of whatsoever things were just and of good report in his city and State.

His study of the law was not as something abstract, speculative, lifeless, but in its relations to society—yea, as the very essence, the life-blood of civil society, even as the surgeon studies the life of his living subject. He had not the gift of eloquence, as the term is generally understood in its relation to juries; but he had what is vastly more important to a lawyer and a judge, the power of clear, terse, vigorous statement, which, illuminating the subject under discussion, if it does not enlist the feelings, does convince the understanding.

Politically his affinity was rather in the school of Hamilton than of Jefferson. He believed that, in framing the Federal Constitution, the fathers intended to create a nation, a sovereign among the sovereigns of the earth; and, his judgment approving their work, he omitted no opportunity to assert and vindicate that sovereignty. Hence in his decisions upon constitutional questions, whether arising out of economic or *quasi* political issues, the national idea always appears, even as the strand royal in the woof of all the banners of Britain.

Of the quality and measure of his work as a justice of this court, running through near sixty volumes of the reports, there is no need to speak. With all his learning,

with all his familiarity with reported decisions, Justice Bradley's opinions rarely rest primarily on adjudged cases. They are bottomed in principle, and then, when practicable, buttressed by authority. The principle involved is clearly stated, with its necessary logical results, and cases are cited to show that, on similar facts, like deductions have approved themselves to other judges—been sanctioned by other courts. The conclusion is right, not because others have said so, but others with him have said so, because it is right. Being what he was, the work of Justice Bradley could not be less than what it is—worthy of the man, an honor to the great court and the great country for which he spoke. His opinions are their own eulogy, the best, the most enduring monument to the fame of their author.

But let no jurist suppose that popular fame awaits him. Such honors are for more showy service, for men on horseback, or for those in political life who touch the people's heart—excite national enthusiasm. The laws of society like the laws of nature work unseen and in silence. The principle of gravitation, pervading and regulating the material universe, was unnoted by men for near six thousand years. If the law herself, omnipresent and all-beneficent, excites so little interest, her priests, quietly ministering in her temple, must be content with respect and veneration. They may not hope for popular applause.

Justice Bradley was a Christian man, cherished the domestic virtues in his home, was a good neighbor, and a good citizen. He tried always to preserve a conscience void of offense toward God and man. Charges against his integrity or honor fell away from him as hurtless as hail from the face of yonder monument. To assert that such endowments, enriched by such cultivation, have perished, that the light of such a life has sunk in endless night, is to impeach the economy of nature.



Justice Bradley was a great lawyer, a great magistrate, a great man. He exalted the tribunal wherein he sat; he enlarged the measure of the place he occupied. His successor will in due time be appointed; his place will not soon be filled.

#### REMARKS OF CHIEF JUSTICE FULLER.

We receive the memorial of the bar and the address of the Attorney-General as deserved tributes to the eminent man whose labors have illuminated the conclusions of this tribunal, and whose gracious presence has been to its members a source of inspiration and fraternal regard for so many years. We, indeed, sorrow deeply that we shall see his face no more.

The story of the lives of those who have triumphed over adverse circumstances and by indomitable will and industry attained that greatness in usefulness and in fame to which their mental gifts entitled them, is always full of interest and instruction, and in portraying the early difficulties surmounted by our departed brother, the Attorney-General has justly called attention to the impressive lesson taught, in that particular, by his career, and indicated one of the most striking grounds of the success with which that career was attended. For the capacity for unremitting intellectual toil was his, accompanied by that power of concentration wherein lies the secret of mastery.

He had not only the "inquiring" but the "intending" mind. He not only looked into things, but threw himself upon them and possessed himself of them. In each instance his nature seemed subdued to what it worked in, "like the dyer's hand." Minuteness and comprehensiveness went together, so that to his understanding the illustration from the Arabian Nights might well be applied, as it was to Bacon, that it resembled the fairy's tent, which

could be placed, perfect in its proportions, on the hand, but set up upon the plain, whole armies could encamp beneath its shade.

It would be unreasonable to say that he took "all knowledge for his province," yet the range of his studies was vast; the books chewed and digested, many; and his acquaintance with affairs so extensive, that what was original and what acquired poured from him in a common flood.

If, as has been said, great judges may be divided into those who decide the particular dispute correctly, and those who, in doing that, expound the principles which will govern future cases, Mr. Justice Bradley undeniably belonged to the latter class; for his decisions in disposing of the matter in hand so explained the reason and the philosophy of the rule applied, as to furnish a guide to the solution of problems to come.

Taking his seat upon this bench, conversant with every branch of the law, and with a mind filled with the results of brooding over fundamental principles in the vigils of many years, there is no ground for surprise that he has left a lasting impress upon the jurisprudence of his country. His opinions from the 9th Wallace to the 141st United States (numbering nearly five hundred), couched in pure, undefiled English, vigorous but elegant, whether in the great domain of constitutional law, in cases at law or in equity, in admiralty, in patent causes, covering the whole field of judicial investigation, whether involving the application of the subtle learning of the common law, or the refined and equitable distinctions of the civil, whether treating of the principles of social order, of civil and political liberty, the bases of forms of government or the immortal structure of his own, constitute a repository of statesmanlike views, and of enlightened rules in the administration of justice, resting upon the eternal principles

of right and wrong, which will never pass into oblivion—an edifice which will remain even though time erase from its corner-stone the name of the architect and builder. This is the exceeding great reward of an illustrious magistrate, that his work in contributing to the progress and happiness of mankind by the just enforcement of the laws will last as long as humanity endures.

The President of the United States, in acknowledging the official notification of Mr. Justice Bradley's death, said : " He was not only learned in the law, but the temper of his mind was so fine and his wisdom so great that I do not wonder that you valued his counsels so highly." This observation is discriminating and just, for it touches that reserved force, termed character, which gave Mr. Justice Bradley an influence beyond the mere words he wrote or uttered. Fineness of mind, wisdom of thought, cordiality of heart, simplicity of manner, conscientious devotion to duty, an absolute integrity—these he had, and possessing these, he has left no unfinished window in the palace of the reputation bequeathed to posterity. Never suffering the talents given him to be weakened or extirpated by disuse, he persevered in the performance of public duty far beyond the period assigned as entitling to well-earned repose.

And so beneath the quiet stars, that appeared in the heavens as the twilight faded away, he continued to reap the harvest of a well-spent life, and at the summons of his Master came, bringing his sheaves with him.

An adjournment has heretofore been had as a mark of respect to the memory of our beloved associate, and a majority of our number has attended the committal of his body in the sure and certain hope of the life of the world to come. The resolutions and the remarks which have accompanied their presentation will be entered upon the record.

PROCEEDINGS IN THE CIRCUIT COURT OF  
APPEALS FOR THE THIRD CIRCUIT.

## IN MEMORY OF JUSTICE BRADLEY.

A session of the Circuit Court of Appeals for the Third Circuit was held at Philadelphia, March 15th, 1892. Present—Circuit Justice Acheson, Associate Judges Wales and Green. At the opening of the court George W. Biddle presented the following minute of the proceedings of the bar of the Circuit Court of Appeals :—

At a meeting of the bar of the Circuit Court of Appeals for the Third Circuit, held at Philadelphia, March 7th, Mr. George W. Biddle was called to preside, and Mr. George Harding was appointed secretary.

On motion of Mr. McMurtrie, a committee was appointed by the chair to prepare suitable resolutions in reference to the late Justice Bradley.

The chair appointed Thomas F. Bayard, Wayne MacVeagh, Richard C. McMurtrie, Cortlandt Parker, George Shiras, Jr., Thomas H. Dudley, John G. Johnson, William C. Spruance, William Bakewell, Samuel Dickson, George T. Bispham, George Harding.

The committee reported the following minute and resolutions, which were unanimously adopted :—

In expressing our sense of the loss sustained by the country in the death of Justice Joseph P. Bradley, we, representing the bar of the United States Circuit Court of Appeals for the Third Circuit, desire to record our testimony to the unusual scope of his general information, the critical accuracy of his legal knowledge, the indefatigable vigor of his apprehension, the keenness and impartiality of his reasoning powers, the strength of his judgment, his wise appreciation of the practical bearings of the law, and the complete probity of his character.

For more than twenty years, during which labors of extraordinary variety and importance devolved upon him, he discharged his duties in such a manner as to earn the unfeigned respect of the bar, the high esteem of his associates upon the bench, and a large place in history among the creators and moulders of our national jurisprudence.

Without the stress of pecuniary necessity, he rested not from his labors till long after the period when most men abandon the struggle of life, and, indeed, not till he heard the final summons to another sphere of usefulness.

His life presents another example of the inspiring truth that, under our political institutions, the way lies open from the lowliest origin to the noblest end.

His last official act in this circuit was to preside at the organization of this court.

*Resolved*, That a suitable memorial of Judge Bradley, as the first presiding judge of this court, be prepared under the direction of the committee, and, with the approbation of the court, be placed in the court-room of the Circuit Court of Appeals.

*Resolved*, That the officers of the meeting be instructed to convey to the family of Justice Bradley this expression of our sentiments and a copy of these resolutions, together with the sincere sympathy of the profession in their bereavement.

*Resolved*, That the officers of this meeting be requested to present these proceedings to the court at its next session.

#### JUDGE ACHESON'S REPLY.

The resolutions adopted by the bar of the Circuit Court of Appeals for the Third Circuit are a truthful and fitting tribute to the memory of Mr. Justice Bradley. The sentiments therein expressed are participated in by the

whole bench of Federal judges of the circuit. Brought into close personal association with Judge Bradley, the innate nobility of his character was clearly revealed to us, and while, in common with the bar and the public generally, we admired his profound learning and his extraordinary qualities, which made him a great judge, we entertained genuine affection for the man. As perfectly as any one it has been my privilege to know, Judge Bradley fulfilled the Divine injunction 'to do justly, and to love mercy, and to walk humbly with thy God.'

The suggestion that a suitable memorial of Justice Bradley, as the first presiding judge of this court, be placed in this court-room, meets with our cordial approval. In the heat of last summer, with health somewhat broken, he journeyed from a distant retreat to this city to preside at the organization of this court. That was his only appearance on this bench. But the words of friendly admonition which on that occasion he addressed to those intrusted with or concerned in the administration of justice—to the judges and to the members of the noble legal profession—are still ringing in our ears. May his wise counsel long abide with us as an inspiration. Some now present will recollect that, in concluding his admirable remarks, he spoke in a tone of sadness of the improbability of his long continuing to assist in carrying on the business of the new court; but he expressed the hope and belief that, with the aid of an intelligent and honorable bar, the court would prove a blessing to the community and to the country. May his aspiration be verified. Surely it will be if we, his surviving associates upon the bench and those who come after us, shall emulate his patience, industry, promptitude, fairness, and sturdy love of justice.

The clerk will make an appropriate minute of these proceedings and spread upon the records the resolutions of the bar.

CIRCUIT COURT OF THE UNITED STATES,  
EASTERN DISTRICT OF LOUISIANA.

IN MEMORIAM—JOSEPH P. BRADLEY.

*Resolutions—Extract from the Minutes, January 30, 1892.*

The members of the bar of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, represented by the committee appointed by the Honorable Edward C. Billings, one of the judges of the court, January 25th, 1892, desire to put on record their sentiments of sorrow in view of the death of the late Mr. Justice Bradley, and their high regard for his memory as a jurist.

The life of Judge Bradley was a credit to American institutions. Born in comparative poverty, inured from his earliest years to self-denial and toil, educated to combine plain living with high thinking; teaching others while still a youth that he might gain the means to obtain the higher education for himself; entering college at an age somewhat more mature than was usual at the time, and thus securing the highest benefits of college instruction; studying law in the leading city of New Jersey under the influence and amid the competition of a gifted bar; rising to sure distinction by merit and not by mere fortune or favor; appointed to the bench of the Supreme Court of the United States in the full vigor of middle life and adorning that bench for nearly twenty-two years—his example is full of lessons and of encouragement to American youth.

Judge Bradley was a man of sensitive organization and of an intellect essentially acute. His fine large eyes indicated his unusual powers of perception. He was an accomplished mathematician, an astute logician, and a master of English style. Nor was he merely a legal critic, and least of all was he a mere case lawyer. Called to the bench at

a time when many grave questions were urging themselves on the attention of the courts, and sitting as he did so long in our highest tribunal, as well as for several years on this circuit, studying the civil as well as the common law, he accomplished much in constructive and comparative jurisprudence. His work remains imbedded in the decisions he rendered, and which are reported in Woods' Circuit Court Reports, and in the reports of the Supreme Court from 9th Wallace to the 141 United States Reports. On questions of the issue of paper money, of the laws and results of war, of confiscation and its extent and effect, of equity powers and chancery practice, of patents and their reissue, of admiralty jurisdiction, of the responsibility of the owners of ships and vessels, and the limitation of their liability under both general law and the acts of Congress; and of interstate commerce and its regulation, his clear and generally prevalent opinions are juristic landmarks in the history of our country.

It should be added to this that while he was of a delicate and nervous temperament, his demeanor on the bench was self-contained and courteous. He compelled himself to listen patiently, and the bar could make no complaint of any want on his part of kindness and consideration.

The death of Judge Bradley was not unexpected. His life had been graciously prolonged beyond the common limit, and his hoary head had become indeed a crown of glory. Not the less we mourn his loss.

And we ask that this brief memorial be spread upon the minutes of the court, to the end that the expression of our feelings at this time may be preserved in permanent form.

(Signed) E. HOWARD McCALEB, *Chairman*,  
 CHS. LOUQUE, Wm. S. BENEDICT,  
 CARLETON HUNT, MORRIS MARKS,  
 WILLIAM GRANT, CHAS. S. RICE,  
 RICHARD DEGRAY, W. W. HOWE.



## REMARKS OF JUDGE EDWARD C. BILLINGS,

Who was presiding in the United States Circuit and District Courts of the Eastern District of Louisiana, in response to addresses of the members of the bar of New Orleans commemorative of Mr. Justice Joseph P. Bradley.

Death always comes to us with a startling effect, no matter how ripe the age of the person stricken, or how gradual may have been his approach to that boundary line between the things called death and existence. When the end has come, no matter how gently ushered in, and we realize that a friend has passed away forever from our mortal vision, there comes over the mind a feeling of surprise which is almost a bewilderment, and as we attempt to sustain ourselves amid the felt separation and loneliness and bereavement, and the near certainty of our own end, we say with Burke, "what shadows we are and what shadows we pursue."

The death of Justice Bradley comes to us with an immense aggregation of suggestions. He was a great intellect; he was a great scholar; he was a great jurist; so great, so admittedly great, that now that death has stilled all voices save that of candid and just and discerning criticism, amid the acclaim of respect and admiration for him which will go up, which is going up not only from all over this country, but from all over every country where our language is used, there is nothing that we can say which will add to the universal recognition of his great labors and his great achievements.

His judicial decisions are characterized by a breadth and fullness of comprehension and of learning and a power of discrimination—just, and most comprehensive and most acute discrimination—so that in his delineation of a subject in order that he may pass judgment upon some point involved in it, the careful student perceives a titanic

strength which is capable of grasping all that is most extended in its fullest amplitude, and also the capability to discern the subtlest distinction—"to trace suggestion to its inmost cell." To be able to comprehend a subject in its entirety and in its minuteness, and to be omnipresent in much of the learning pertaining to it—this was one of his endowments, as supplemented by his acquisitions.

What shall we say of his history—of his career? It had in it that which kindles the pride and quickens the pulse of every American beholder. Commencing life in a lowly sphere, making by "force his merit known," he rose to be a pillar and an ornament of the most truly grand and august tribunal, as men who measure things in their broadest relations count grandeur and elevated dignity, which has ever existed on the earth. He came to his position in this tribunal when not only there came before it the important questions connected with defining and enforcing in the action of a great nation as it sweeps on in its orbit its fundamental law, but also when there were heaved up by our civil war those vital questions pertaining to sovereignty and union and freedom, the magnitude and far-reaching influence of the decisions upon which have added to the vigor and the resources of representative government forever. Amid all these trying circumstances his ability and weight of learning were such that their traces are left upon many of the decisions of those stupendous questions as the ineffaceable impressions of a master mind—to such a degree did the consummate manner of his solution comport with questions of greatest moment and difficulty.

The versatility of his mind was not more wonderful than was the variety of his learning. He could compute the eclipse of a planet with the ease with which he could add up a day's expenses. He once sent me a poem composed by him upon the death of a "much-loved" sister, which, in tenderness of feeling, is equal to *Montgomery*, and in sweetness of versification is equal to *Moore*.

He was one of the great men of our day. He was not "born to greatness," nor did he "chance" upon it. He "achieved" it.

But above his intellectual greatness, above the vastness and ramified character of his studies, now that his rounded life has closed, be it said, that there looms up his faithful adherence and inflexible devotion to his convictions. No commotion of the people, no temporarily blinded opposition, no matter how infuriated, no criticism of his opinions, no matter how bitter, could for a moment deter or move him from espousing with all its consequences an opinion which he believed to be rooted and grounded in the right. Throughout his judicial life he lived and moved and had his being in what he believed to be just.

It is little we can say for him by words of ours in attempted commendation and eulogy; for his career will enduringly reflect credit upon the American bar in that he was a member of it, and will continue to illumine the name and fame of American jurisprudence in that his habits of thought and the results of his researches and his fearless and upright spirit will continue to glow in it.

## TRIBUTES BY THE BAR OF THE STATE OF NEW JERSEY.

### MEMORIAL RESOLUTIONS—JOSEPH P. BRADLEY.

A meeting of the Essex County Bar was called at noon, January 25th, to take action on the death of Justice Bradley.

Judge Depue presided, and announced that the meeting had been called in order to express the regret of the bar at the death of Justice Bradley. Judge Kirkpatrick was then elected secretary, and the following were appointed a

committee on resolutions: Ex-Chancellor Theodore Runyon, A. Q. Keasbey, Thomas N. McCarter, W. B. Guild, John W. Taylor, Frederick W. Stevens, R. Wayne Parker.

After a short recess the committee returned with the resolutions, and Mr. Runyon, addressing Judge Depue, said:—

Before presenting the resolutions which the committee have adopted, I will be glad to say a word or two of commemoration. I cannot hope by any expressions of mine to add to the force of the eulogiums which have already been pronounced upon the distinguished jurist on the occasion of whose death we have assembled. I can only add another to the well-deserved and just tributes to his excellence and public and private worth. Sometimes, when we are similarly convened, we are called upon to regret a life untimely ended, noble aspirations left unattained, and brilliant promises of future success unfulfilled. But such considerations have no place here. In the fullness of his years, and crowned with honor, after a long period of great usefulness in a great sphere, for which he was eminently fitted, Justice Bradley has laid down the burden of life. He served the country for more than a generation in one of its highest places—in one of the greatest tribunals in the world. No man ever came to it better equipped than he, and even when he entered upon its duties, no spirit of prophecy was needed to predict that he would surely attain the eminence which he so speedily reached. Ofttimes associated with him in business matters while he was at the bar, I came to know him extremely well, and to enjoy his friendship and to admire his ability, his learning, and his other great qualities. He was happy in reaching early the goal of his honorable and praiseworthy ambition. He was happy in his work and his environments and his success, so that to the last he continued his congenial public employment. His, too, was an euthanasy. Surrounded by family and friends,

in the very midst of his labors, he retired from the scene with the honor due to a life successfully devoted to the public welfare.

Mr. Runyon then read the resolutions, which are given herewith in full :—

In attempting to express our feelings upon this occasion, we have no common duty to perform, for our late friend and brother was no common man. For over half a century a member of the bar of New Jersey, he maintained toward it a constant love and devotion. Even in his last great office he was still at heart the New Jersey lawyer, never ceasing to care for our welfare, and always eager to hear of the members of our profession, and to know of their ability and success.

Newark he regarded as his real home. Here he sent his sons to live, and here he is to rest. It was the home of his youth, of his marriage, and of his heart. The qualities that took him from his birthplace on a poor mountain farm are known to all. From the first he was distinguished, different from others, remarkable and remarked. His characteristics were so strong that they would have been eccentricities had not one class balanced the other. What is more rare than the union of fiery business activity with a scholar's devotion to his books, of restless ambition with absolute simplicity, and of invincible combativeness with great native gentleness and charity? Almost his last act before his death was to order a check sent that he had drawn as a gift for an old acquaintance in Newark not heard of for years.

By his family and friends, and his associates at the bar and on the bench, he was loved as only the really gentle can be loved, yet his masterful energy was ever present.

He entered Rutgers College a country lad with little knowledge but of the grammar. In a year he had jumped a class, and in thirty months he had graduated by special

examination. From that day labor was his pleasure and study his recreation, and in harness he died.

He was devoted to our profession, and is a fitting example of what can be achieved by such devotion. With his marvelous memory of cases and principles, his acuteness of intellect, and his concise and severe style, he became immediately a leader among us, and, as a judge, acquired the greatest influence in the high court where he sat so long. How his associates valued him is best shown by the fact that frequent conferences were held in his study after he fell ill. His death is a national loss, not to be repaired, a loss the greater now that long judicial experience has tempered the original uncompromising vigor of his views.

In the Electoral Commission, amid the storms of party feeling and the awful responsibilities of the time, he was the calm, inflexible judge, in whom all had to recognize the man, the master of the hour.

Living an active life, he yet found time for study, the food of youth, the delight of old age, and the ornament of prosperity. His real home was in his library, "entering which he could bolt the door on ambition, avarice, and all those vices whose nurse is idleness, and in the very lap of eternity, among so many souls divine, could take his seat with so lofty a spirit and with such sweet content, as to pity all great ones and rich who knew not this happiness."

In this practical age we turn to the words of the elders to describe that passion for learning, and its happiness and power, which dwelt in him who was to the last a scholar, and is now gone to join the school divine.

*Resolved,* That the following minute be adopted:—

It is fitting that amid the universal expressions of regret on the occasion of the death of Mr. Justice Bradley, the bar of New Jersey, of which he was an eminent and highly esteemed member during all his professional life, and which

from consequent association with him has special knowledge of his qualities and characteristics, should express its sense of the justness of the public estimation of that distinguished jurist. Before his advancement to the bench, he lived among us for many years, and was prominent in public and private business. His interest in the State and its welfare continued to the end of his life. He was public-spirited and enterprising, and of strong and outspoken patriotic impulses and convictions. Though he never sought political office, he never shrank from active participation in public affairs when called by the voice of his fellow-citizens. In the practice of his profession he was employed in the most important causes of his time, and he exhibited the same high traits which afterward made him so conspicuous in the judicial office. He was acute, wise, careful, and conscientious, serving with signal ability and fidelity the interests—very often of very great magnitude—committed to his charge. His elevation to the bench of the Supreme Court of the United States, and his exceptional success in the discharge of the important duties incumbent on him there, were a source of gratification and pride, not only to the bar from which he was taken, but to the people in general also. When he was appointed his reputation had passed far beyond the boundaries of the State. His fitness for the place was conceded by all who knew him, and the years of his long service as they passed by only made his judicial excellence more and more manifest and undeniable. By nature he was self-reliant, industrious, and energetic, and in his career he furnished a striking and encouraging example of what may be accomplished by unaided efforts with those qualities alone. He was especially distinguished for his erudition. In legal learning he had no superior and but few equals, and the extent of his acquirements in other departments of knowledge was surprising. Thoroughness was a characteristic

of his varied attainments in whatever field. Of unimpeachable integrity, patient in hearing, of large experience at the bar and on the bench, industrious and painstaking in investigation, sound and just in judgment, deliberate and courageous in decision, he combined in himself all the qualities of a great judge. To the advantage of our institutions and to the benefit of the people, he has left the deep and ineffaceable impress of his strong and enlightened mind upon the law as declared and administered by the august tribunal of which he was so eminent a member, and he has closed in honor a long, well-spent, and useful life, much of it passed in an exalted sphere of wide responsibility, in which he won great and well-merited distinction.

*Resolved*, That a copy of these resolutions be sent to his family, with our respectful sympathy in their bereavement, and that they be entered upon the minutes of the Circuit Court of this county.

---

#### ACTION OF THE DELAWARE BAR ON JUSTICE BRADLEY'S DEATH.

Resolutions in memory of the late Joseph P. Bradley, Associate Justice of the Supreme Court of the United States, were adopted by the members of the bar of this State at a meeting held yesterday morning in the grand jury room of the United States Court. Thomas F. Bayard was chairman of the committee on resolutions, the other members of which were Charles B. Lore, William C. Spruance, E. G. Bradford, and George H. Bates.

After the adoption of the resolutions Judge Leonard E. Wales presided at a session of the Circuit Court, to which they were presented.



## REMARKS OF MR. THOMAS F. BAYARD.

May it please your Honor : I am instructed by the bar of the State of Delaware, and as a member of the committee appointed for that purpose, to report certain resolutions which were adopted by them this morning in relation to the death of the late Mr. Justice Bradley of the Supreme Court, and the presiding judge of the Circuit Court for this district.

The resolutions are as follows :—

WHEREAS, The bar of the State of Delaware were called upon in common with their professional brethren throughout the Union to lament the death of the Hon. Joseph P. Bradley, lately an Associate Justice of the Supreme Court of the United States, whose district of duty in the Circuit Court for many years past included this State ;

WHEREAS, As expressive of the sorrow sincerely felt and the high respect and honor in which the deceased magistrate was held by this bar, be it

*Resolved*, That in the death of Mr. Justice Bradley we mourn the loss to the entire community of a jurist of great experience, wide and varied learning, whose well-stored logical and analytical mind sheds light upon the jurisprudence of the nation, and importantly throughout the administration of justice in the land ;

*Resolved*, That the eminent, prolonged, and laborious career of the deceased in the public service, and his personal and social virtues entitle his memory to be cherished in the hearts of his countrymen as a wise, virtuous, and patriotic citizen ;

*Resolved*, That a copy of these resolutions be engrossed and transmitted, in testimony of our sincere condolence, to the family of the deceased ;

*Resolved*, That the resolutions be presented to the Circuit Court of the United States for this district with the request that they be spread upon the record.

It is but fitting upon such an occasion that we should pause and reflect upon the importance of the loss we have sustained and of the brevity of all mortal career. The Supreme Bench of the United States is probably to-day the most remarkable object lesson to the people of the United States of the brevity of human life ; for we have been accustomed to consider it the most permanent of our institutions, and by creating a life tenure that the *personnel* of the bench should remain long unchanged, and as is a fact, this gentleman, whose death occurred on the 22d of January last, was the oldest member of the bench in point of years, and the oldest in service excepting Mr. Justice Field.

Mr. Justice Bradley's term of service on the Supreme Bench was twenty-two years, and for eleven years he has been the presiding judge of the Delaware Circuit. A man of delicate physique, laborious and struggling with great energy against a debility, he could have retired under a beneficent provision of law nine years ago with the full enjoyment of his salary, but filled with an ambition to render public service and a conscientious desire to perform his duty while it was in his power, he stood courageously at his post of duty, and may be said to have literally died in harness.

I personally recollect him but a few weeks ago dragging his feeble frame upon the bench for the purpose of taking part in the hearing and decision of a public question of much importance. All felt that it was a very great exertion for him to be present, and all recognized with great respect the feeling of fidelity to duty that induced so great an effort.

It is a matter of great satisfaction that up to the very last there was no indication of the failure of his mental

power, but to the very end there seemed to be the fullest control of his accumulated learning and power for its expression, with a full sense of high moral responsibility for the duties he had to perform, so that his last days might well be said to have been his best.

Judge Bradley's career was distinctively American. No more admirable illustration of the equities of our system of government could be presented than by his life. He was born in poverty, the eldest of eleven children, of a poor farmer in the State of New York. Whatever education he received was from the study of a few books at home and at Rutgers College in New Jersey, except the self-education to which I shall refer. Up to the age of sixteen he was compelled to work for his living on a farm. After that time, by the aid of citizens of New Jersey, who recognized his ability and worth, he was enabled to enter Rutgers College, and after he left college he taught school for his support and was admitted to the bar in 1839, from which time on he continued to the day of his death a student of the law, not a mere hunter of cases, but a seeker after the principles which he found embodied in the decisions of the courts. Mr. Bradley's education was the best, for it was self-education, and it never ceased until death came. He was not a narrow student of the law alone. He knew that the foundations of jurisprudence are imbedded in philosophy and religion and in the morals that flow from religion, so that when he came to apply the fruits of his studies in the administration of the law, the spirit of the sources from which he drew his education became apparent in his opinions, and they have been recognized and respected by those to whom they were addressed.

I have more than once been his guest and have been shown by him with great pleasure and delight the remarkable collection of editions of the Holy Scriptures he had gathered. I presume no such collection of bibles exists in

any private library in the United States as Judge Bradley's. Nor do I think that this collection was made in the mere spirit of a bibliophile or from literary curiosity, but that he was, as I have reason to know, a student of the bible. As a mathematician he was distinguished in college and enjoyed its study as a relaxation in after life.

His library of history and the drama was extensive and well selected and remains a monument to his liberal tastes and cultivation. The result of all this varied reading became manifest in the opinions which as a judge he delivered upon manifold topics, and while being based upon sound general knowledge as well as of exact law were authoritative and influential.

His labors are best recorded in sixty volumes of reports of the decisions of the Supreme Court of the United States, which attest his sound learning, his sagacity and upright public service, and will long endure for the benefit of his country. And now he rests from his labors and his works do follow him.

May it please your Honor, as instructed by the resolutions, I move that they be spread upon the records of this court.

#### MR. WILLIAM C. SPRUANCE'S REMARKS.

In seconding this motion Mr. Spruance spoke as follows :—

It was my good fortune to argue several cases before Mr. Justice Bradley while he was upon this circuit, and to frequently meet him socially, and I was led to entertain for him a profound respect as a judge and a high regard for him as a man. It now affords me a melancholy satisfaction to be permitted to second these resolutions and pay a brief and feeble tribute to his memory. He was endowed with

great natural powers ; among others, with a facility for rapid acquisition and a remarkably retentive memory. To these great gifts he added in childhood, youth, and old age a passionate love of knowledge and a great capacity for protracted intellectual labor.

Notwithstanding his ardent desire for learning, great aptitude and diligence, the way of knowledge appeared to be at first absolutely barred to him. He would, of course, have made his mark in life whatever might have been his calling, but it was a fortunate circumstance which unexpectedly opened to him the path of the scholar and enabled him, although with scanty means and much added labor for self-support, to complete a full college course and regular training in the study of the law. Self-made men are too often but poorly made, but here is an example of a man who, without fortune and against many adverse circumstances, laid deep and broad and strong the foundations of his great career. His life appears to me to reverse many of the maxims of prudence to which most men find it wise to adhere.

We were early told "that the law is a jealous mistress," "that it is better to do one thing well than many ill," "that no man can attain all knowledge." But here is a man who, while he attained a profound knowledge of the common law, equity, admiralty, and the law in all its branches, as administered in this country, was almost equally skilled in the civil law, and familiar with the jurisprudence of the whole civilized world, ancient and modern. Added to this, he was a linguist of such high order that he could with credit have filled the chair of ancient or modern languages in any university in the country. For mathematics he had a talent, love, and knowledge which would have been creditable to a specialist.

Think of this busy lawyer who, as he tells us in his brief and modest autobiography recently published, was

for thirty years under the constant pressure of professional engagements, and who for twenty-two years fully, faithfully, promptly, and with signal ability performed all of the arduous duties of a justice of the Supreme Court of the United States, who amid these engrossing occupations found time to revive and extend his knowledge of Latin and Greek, and add to these Hebrew and Sanscrit, German, French, Spanish, and Italian, the higher mathematics, and a vast store of general knowledge. I remember to have heard one of his associates, a justice of the Supreme Court, say a few years ago, "that he thought him the most learned man he had ever known. That there was seldom a topic broached that he did not know more about than any one present, and if he did not that day he would the next."

With all this varied and profound knowledge his mental operations were simple and lucid, and his style, both written and spoken, was clear, direct, and utterly free from any unnecessary display of learning.

His quick perception, great analytical power, profound and varied learning and wide experience, both as a lawyer and a judge, enabled him to solve the most difficult questions, and reach the ultimate truth with a clearness and certainty almost phenomenal.

In private life Judge Bradley was charming. His conversation and manners were gentle, unaffected, and attractive. I think I may safely say that there is no member of this bar who had the honor to appear before him in this court, or to know him socially, who does not honor his memory and deeply regret his loss. He was a great judge and served his country well, and shed lustre upon the profession of the law. His name and fame will go down to posterity with those of Marshall and Story and Taney, and the other illustrious jurists who have made the Supreme Court of the United States the greatest judicial tribunal in the world.

## REMARKS OF MR. E. G. BRADFORD.

May it please your Honor : After all that has been so well and eloquently said by way of tribute to the memory of Mr. Justice Bradley, I feel that any extended remarks on my part would be superfluous. I may, however, say that for many years I have entertained a profound admiration for Judge Bradley. In him I have recognized a man of very great ability, of wide and varied learning, and of pure and elevated character. I feel his death as in a certain sense a personal loss to myself, for I knew him personally. I first met him when my father occupied the position now so well filled by yourself. I met him socially, and I have met him as the presiding judge of the Circuit Court for this district, and have argued cases before him ; and I may say without intending any invidious distinction or discrimination that in my experience I have never met a judge whom I considered his equal. To me Mr. Justice Bradley seemed not only to have a broad and far-reaching grasp of mind, but he had the logical faculty developed to the highest degree ; he had a most keen intellect. His logical instinct or faculty led him unerringly to the precise point in any case before him which it was necessary to solve. I do not think that I have ever met his equal in that regard. Then, as has been well said, his varied knowledge, his familiarity not only with common law, but the civil law, his extensive reading and reflection in most of the branches of human knowledge, enabled him to illuminate and enforce his arguments and decisions in such manner that they were models, rounded and complete. I think, may it please your Honor, that it will be impossible for any intelligent lawyer to look over the many volumes of the United States Supreme Court reports containing decisions of Mr. Justice Bradley without being profoundly impressed with his ability, his breadth, his learning, and his power as a judge.

To err, of course, is human, and I presume that no judge has ever continued his judicial career for any length of time without falling into error in one or more respects, but I believe that Justice Bradley, when his life-work on the bench is taken as a whole, will be found to have been singularly accurate and sound in the conclusions at which he arrived. He has certainly, as a member of the Supreme Bench, contributed in the largest degree to the judicial literature of this country. If, in addition to his attainments as a judge, we consider the purity of his life, the elevation of his views, and his social characteristics, one is forced to the conclusion that in his death the bar and the people of the United States have lost a good, great, and illustrious man. It is most fitting, sir, in my opinion, that the bar of this State should, by the presentation of the resolutions in question, pay its tribute to his memory.

#### REMARKS OF MR. GEORGE H. BATES.

In the remarks which have been made with respect to Mr. Justice Bradley it seems to me that there has been laid before your Honor an unusually discriminating estimate of his character and career. I think, as my memory runs back over many years to similar occasions, that it has perhaps never been our lot to have expressed at such a time so fully and so comprehensively the distinguishing characteristics of a departed judge. So much do I appreciate that this has been done that, but for the fact that I have been appointed upon the committee to present these resolutions to your Honor, I should say nothing. My only object in speaking is to express not only my concurrence in the sentiments which have been expressed, but my great satisfaction at the manner in which the gentlemen who have been designated by the committee to address the court have performed the



duty intrusted to them. It has seemed to me in thinking over the history of the Supreme Court that Judge Bradley in many of his characteristics, as also in the variety of his learning, reminds me more of Judge Story than of any other of his predecessors ; and yet I think there is one very marked difference in the two men. Judge Bradley seemed to me to have in a marked degree that universal learning which has been alluded to, outside of the mere professional acquirements which distinguished Judge Story and made both of them ornaments of the bench, but I think that Judge Story had a larger degree of imagination which enabled him often to argue himself into a conclusion which possibly the extremely logical mind of Judge Bradley would not have been able to accept. At the same time from what I have heard from the associates of Judge Bradley on the bench who have been brought into close association with him, it has seemed to me that he performed on the Supreme Bench a function which, during Judge Story's time, he performed, and that was in bringing into counsel with his associates a largeness of learning outside of merely professional requirements.

I am sure that no one who has argued cases before Judge Bradley would not agree at once with the suggestion already made here that it would be with a very uncomfortable feeling that a lawyer would rise to discuss before him a proposition of law which he had not been able to bring his own mind to accept clearly and unreservedly.

Then, too, no one who has been brought into social relations with Judge Bradley during his visits here has been able to resist the charm of personal contact with him, his gentleness, and particularly his kindness to men much younger than himself, even to the youngest member of the bar who was brought in contact with him. For my own part I cherish his memory with a feeling of something more than admiration—with personal regard and affection.

Of all the justices who have sat upon the bench, at least within my recollection, coming here from the Supreme Court, Justice Bradley has always seemed to me to take a larger interest in the business of the court in this district. He always came here when requested, if his engagements would permit, and when here would willingly sit hour after hour listening patiently to whatever was properly brought before him. I heartily concur in the request to your Honor that these resolutions be entered upon the records of the court.

#### REMARKS OF MR. MACALLISTER.

I have listened with a great deal of interest to the remarkable career and great learning acquired after great difficulties, the purity of his life, the fond social attractions, and the integrity and industry which have been related of Justice Bradley. All these are very gratifying to me, and I must heartily accord in all that has been said about him, but I hope I may be permitted a few moments, although not being a member of the committee, in which to refer to the valuable lesson that the life of this great judge gives to the youth of this country. In whatever sphere of life we move in, certainly a study of this man's life will be a most wonderful incentive to industry, integrity, self-conscientiousness, persistent and personal purity. How many of the comparatively young members of the bar will study the life of this great man without feeling that the record he has left and the lesson which his life has taught had not earlier been instilled into their principles, views, and action. Therefore the life of this man should be religiously studied by every young man who aspires to reach a respectable position in the pursuit in life to which he concludes to devote himself.

## A TRIBUTE FROM JUDGE WALES.

Judge Wales said that he received the resolutions with sincere sympathy and in full accord with the spirit of the remarks of the gentlemen who had spoken, and they will be entered upon the record of the court. After speaking of Judge Bradley's memory and character as worthy of the most profound respect, he said :—

His work on the bench of the Supreme Court and in the Circuit Courts of the Fifth and Third Circuits not only disposed of numerous cases of local and individual interest in almost every branch of the law, but contributed largely to the settlement of many questions of national importance ; and his reported opinions, by their wealth of learning and lucid reasoning, have enriched the jurisprudence of our country. For these results we are his grateful debtors.

Judge Bradley possessed the elements of true greatness—wisdom, integrity of purpose, and simplicity. These appeared in his manner and in his conversation and in the substance and style of his written judgments ; the latter exhibiting that combination of clearness of statement and logical order of argument which mark the recorded thoughts of master minds.

He was a zealous and patient searcher after truth. Intellectual labor was congenial to him. What to others might seem to be a laborious task was to him a delightful occupation, and constant study was his constant enjoyment. In the consideration of legal questions his anxious desire was to arrive at just and right conclusions and not sustain any favorite or special theory. To an inquiry where he found a precedent for one of his opinions, he replied that the latter was common sense, and it would be a pity if no authority could be found to support it.

In social intercourse Judge Bradley was at once an entertaining and instructive companion. Like Lord Bacon,

he seemed to have taken all knowledge for his province, and there were few subjects pertaining to history, literature, science, or law which his learning did not embrace, and on which he could not impart varied and useful information from the ample storehouse of his memory. With all his pre-eminence in natural endowments and acquired attainments, he never assumed or affected superiority over others, but was considerate of the feelings of those who were less gifted in these respects than himself. Jealous of the purity of his intentions, he did not lightly criticise the motives of others, and he indignantly repelled any unjust charge against his own.

Justice Bradley was a man of tender sympathies, seldom manifested, but not always suppressed.

For myself, I conceived it to be a privilege to know such a man, to share in his deliberations, to be enlightened by his wisdom, to be aided by his researches and practical experience, to be honored by his confidence. I knew him only in his later years, at a period when bodily and mental vigor begin to yield to the infirmities of age, but with him, although the physical strength was gently declining, his mental faculties shone forth clear and bright to the end, and he was able to perform his judicial duties until within a very few weeks before his death, thus realizing his oft-expressed wish that he might "die in harness."

Those who were present at the organization of the Circuit Court of Appeals in Philadelphia last summer will recall the remark made by Judge Bradley on that occasion, that it would not probably be his lot to continue long in assisting to carry on the business of the court. We did not then think that this pathetic prediction would be so soon verified.

I knew him long enough to become warmly attached to him and to deplore his death.

The court was then adjourned out of respect to Judge Bradley's memory.

## Obsequies.

---

### JUSTICE BRADLEY'S FUNERAL.

---

#### SERVICES AT THE NORTH REFORMED CHURCH.

The body of the late Justice Bradley was brought to Newark from Washington in a train of the Pennsylvania Railroad, and on its arrival there was taken to the North Reformed Church, on Broad Street, opposite Washington Park, of which the deceased was for many years a prominent member during his residence in Newark.

A special train left Washington at 8 A. M., bearing Chief Justice Fuller, Associate Justices Harlan, Gray, Blatchford, Brewer, and Brown. Justices Field and Lamar were prevented from attending by illness. The Clerk of the Supreme Court, Mr. McKenney, and Marshal J. M. Wright and several of the United States District and Circuit Court judges, met the party at the depot, and proceeded to the North Reformed Church, and there awaited the beginning of the funeral services.

The church was crowded when the funeral services began at two o'clock. The Rev. Dr. David Waters, pastor of the church, and the Rev. Dr. Charles E. Hart, of Rutgers College, New Brunswick, a former pastor, who was in charge of the church when Judge Bradley attended there, were on the platform.

The following gentlemen were the pall-bearers : George M. Robeson, of Trenton ; Thomas H. Dudley, of Camden ; George Harding, of Philadelphia ; John P. Stockton, of Trenton ; Amzi Dodd, Cortlandt Parker, Thomas T. Kinney, and Robert F. Ballentine, of Newark.

The official board of the church was represented by the following members of the consistory : William Clark, John Duncan, Dr. John L. Duryee, George Brown, F. R. VanNest, Peter Vanderhoff, Dr. Arthur Ward, George Cooper, Robert Cumming, Wilbur Smith, Peter Demerest, Robert Symington, Peter Campbell, E. E. Rhodes, J. S. Polhemus, John G. Woodruff, John Allison.

## ADDRESS OF PROF. CHARLES E. HART, D. D.

Respect for the simple, quiet, modest tastes of the great jurist before us enforces upon us, from those who hold his wishes sacred, the utmost brevity and simplicity.

It is not to make known a character and life which has made itself known in its own direct power and "cannot be hid" that we speak; which has recorded itself legibly and indelibly in the history of the law, justice, and public affairs of our country, which associates at the bar and on the bench have anticipated in their tributes of just pride and admiration; it is not to draw out the lessons of such a character and life, which force themselves upon us in their inevitable logic; it is to ease our own minds, if only in mere ejaculation, of the burden of veneration and affection which vainly struggle with our sorrow as we commit his body to the ground.

Death, as if lost in the fascination of the marvelously regular, consecutive evolution of this life, suspended its stroke till the full rounded, rich completeness was reached, when it is offered to our view in a splendid unity.

The native spring and inspiration was an unquenchable thirst for knowledge, in an intense love of truth, shown in earliest youth; and this, active in an acute, analytic, judicial mind, as if by its own foreordination, marshalled all the circumstances and events of that life into harmony with its supreme aspiration, and, through the triumphs of his chosen profession, lifted him in direct line of promotion to the most august and venerable position in the functions of our national government, which for more than twenty years he has adorned with his profound wisdom, his vast learning, and his incorruptible integrity. His life is a rare realization of an ideal.

The restriction to the Law of his devotion to truth was no contraction of the bounds of his intellectual interest, for it was devotion to law in the exalted conception of Hooker, "Of which there can be no less acknowledged than that her seat is the bosom of God, her voice the harmony of the world; all things in heaven and earth do her homage, the very least as feeling her care and the greatest as not exempt from her power; both angels and men, and creatures of what condition

soever, though each in different sort and manner, yet all with uniform consent admiring her as the mother of their peace and joy." With this conception of law, the mother of his peace and joy, in the prosecution of his profession of law, he swept almost the entire field of knowledge. With an indomitable will, not exerted upon others in rule, but upon himself, upon his own faculties and powers, in the pursuit of truth, the very diversions of which were found in the solution of problems and in excursions into new and remote fields, studying in his old age the Gothic, as Cato in his old age the Greek, he made vast acquisitions of learning, with which he graced his profession and his high office. His learning, how recondite! grasped with what thoroughness! apprehended with what exactness! how intimately incorporated in his mental structure through his own independent study and reflection! No frame but the most vigorous could stand the exactions of such a mind in incessant study and labor to the verge of eighty years, sinking peacefully to sleep "in the harness," as he desired, with faculties, clear and unimpaired, even in the article of death.

Our faith in the immortality of the soul has a struggle to maintain itself when we consign a body of animalism to its native soil, but that death should extinguish powers of such pure immaterial intellect, should extinguish mind, reason, will, at a material touch—never! The mind of the great jurist lives, and lives with "the power of an endless life." Death, in the suspension of the action of the brain and heart, has only liberated into larger life the vast energy of that indomitable will, and preserved for the exalted communion of the choice spirits of the blessed "the harvest of that quiet sleepless eye," gathered in the incessant study of a lifetime.

This was Justice Bradley's faith. I had, as his pastor, for several years, enjoyed a friendship close enough to justify my confidence in the profession of the Christian faith he made in his youth and maintained through his long life to the end. It was firm, intelligent, and learned. He had, by long study and deep meditation upon the mysteries of faith, "added to his faith, knowledge." He was a student of the Scriptures in the original tongues. In yonder pew, when a worshiper in this church, he kept his Greek Testament, with which he followed the reading of the Scriptures, and verified the exposition of the preacher. He reviewed with his characteristic thoroughness the history of the English

translations of the Scriptures, and, at my suggestion, reduced his studies to lectures, which were delivered here and elsewhere to the great delight of those who heard them. He extended his studies to the scriptures of other religions, and in particular, in which he allowed me to take part, the translation of the Zend-Avesta. His studies in these scriptures served only to strengthen his faith in Christianity. He was a no less diligent student of the Confessions and theology and history of the Reformed Dutch Church, toward whose institutions he never failed to exhibit the most ardent and intelligent loyalty.

I have the honor to serve, and to represent on this occasion, the venerable institution which trained this jurist, or rather in which he trained himself, for his great career. I cannot repress in this distinguished presence, assembled to do him honor, the sentiments she cherishes for a son who has reflected, especially in his broad and profound scholarship, such honor upon her as his Alma Mater, and the deep sorrow she feels in the loss of the presence, counsel, and care of one of her most faithful and devoted trustees. He has lectured in the professor's chair, he has quickened the enthusiasm of the scholar by the prizes which bear his name, he has served in one of the longest terms on the board of trustees. Only recently was he in attendance upon one of its sessions in the transaction of most important business. But the college comes here as a chief mourner, not like Cambridge, as introduced by Milton in the elegy of Lycidas, in sorrow over hopes blighted in the early death of a scholar of great promise, but in joy, to applaud the fulfillment of her highest ideal in the achievements of a completed and honored life. For her centennial he wrote her history; but he did more, he helped in his career to make that history brilliant.

In the long succession of illustrious graduates, one class is marked for eminent distinction as brilliant with a cluster of minds of the first magnitude. Their names are always associated in our thoughts and on our tongues. The first of that cluster to close his earthly career, which he did in the high office of Secretary of State of the United States, brought together in this house of God to do him honor the most distinguished assemblage ever convened in this city—the accomplished, the eloquent, the wise, the devout Frelinghuysen. The high office in which he died was the summit he reached through an ascending succession of positions of honor and trust.



And now, for the second time in this house of God, this great assembly is brought together to do honor to the next of that group of ardent youths to close his career, which he does in the most exalted office of justice in the Supreme Court of the United States. Their Alma Mater, whilst a chief mourner, is in this hour the proudest of all in the splendid triumphs of these gifted sons. Their honors are hers; their names her best endowments, the most powerful agencies in the inspiration of the youth in training within her walls for commanding positions in life. Judge Bradley's life is one of the most instructive and stimulating to noble aspiration.

It is fitting that in this church we assemble to pay the last honors to these eminent men. In this pulpit, in which I once served as pastor, I cannot forget the service they rendered, when, in the dawn of their brilliant careers, they consecrated themselves to the Redeemer, and united in the foundation of this house of God. It was in the home of Justice Bradley they met for its organization; in its highest offices they served; to its welfare they devoted their best energies, and under their guidance the church was raised to its present position of power. Justice Bradley, although for twenty years past absent in Washington, died in its communion. At the celebration of its first decade he read the historic sketch of its past, assigned him to prepare, and Secretary Frelinghuysen, in an eloquent address, enkindled our enthusiasm for the future. Their names were not erased from its roll during their enforced absence in the public service; they will abide in the remembrance of this church as long as it lasts, a monument to them and their godly associates.

The imposing aspects of such exalted characters are apt to overshadow and conceal the gentler elements of the heart; but these elements were there and in active play in the circle of home and friendship. Water from the rock is the purest and sweetest, beauty in the sublime poetry of Milton is the most delicate and graceful in our literature, and the tenderness of great natures is the most benignant. The sweetest recollections in the life of this great jurist belong to the privacy of his home and the circle of his friendships, and most of all to the heart which has been his stay and support through his long career.

Death has indeed deprived us of his living, personal presence, but death cannot deprive us of what he has left in the history of the

country, in the example he has held up to the members of his own profession, and to those who were associated with him in the high office he adorned; and death cannot deprive this bereaved family of the memories left in the sacred circle, which will be cherished as a delight in all the years to come.

His name is the synonym for learning, wisdom, and uprightness. It will be honor enough for any man to have it said of himself that he is as learned or as upright or as wise as Justice Bradley.

LAW,  
ITS  
NATURE AND OFFICE  
AS THE  
BOND AND BASIS OF CIVIL SOCIETY.

INTRODUCTORY LECTURE  
TO THE  
LAW DEPARTMENT OF THE UNIVERSITY OF PENNSYLVANIA.

BY JOSEPH P. BRADLEY.

1884.



## ADDENDA.

---

### ADDRESS OF JUSTICE BRADLEY BEFORE THE LAW SCHOOL OF THE UNIVERSITY OF PENNSYLVANIA.

YOUNG GENTLEMEN : An introductory lecture to a course of law is not unnaturally directed to a general view of the subject, its nature, the principles on which it is founded, its relations to other departments of knowledge, the proper methods of its study, and the aims which the student should have in view. To these heads, or some of them, I shall endeavor to direct your attention on this occasion.

First of all, we ought to have a clear conception of the subject itself—law—what it is, and what is its office and use in human affairs. Perhaps the imagination would be more impressed by picturing to ourselves the absence of law than by attempting to describe its operation and effect. Suppose that an omnipotent edict should presently go forth, abolishing all law ; what would be the condition of things in this city ? A. would walk into B.'s banking-house and take from his box or safe any amount of money that his fancy dictated, unless B., by superior strength, could protect his possessions. In like manner C. would enter D.'s store, and take such articles as he chose, unless D. could prevent him by force. Your neighbor, being in want of books for his library, could take from yours whatever he needed, and any clothes from your wardrobe which might strike his fancy. The first bully you might meet on the sidewalk could strike you down with impunity, either for the purpose of indulging in sheer malice and wickedness,

or of possessing himself of any valuables about your person. You might, at any moment, be turned out of house and home by a stronger person, who fancied your luxurious and elegant surroundings. There would be no such thing as property, or debts, or securities. Everything would lie in possession, and that would go to the strongest. Any association of good men, entered into for mutual protection, would be so far the establishment of law, and would be contrary to the supposed edict abolishing it. Society would be dissolved and ended. Society cannot exist without law. Law is the bond of society ; that which makes it ; that which preserves it and keeps it together. It is, in fact, the essence of civil society.

#### DEFINITION OF LAW. WHAT IT IS.

And now that we see what law accomplishes, and what would be the effect of its abolition, we may proceed to a definition of it. Blackstone says that municipal or civil law is a rule of civil conduct, prescribed by the supreme power in a State, commanding what is right and prohibiting what is wrong. I would rather say that it is those rules and regulations which the inhabitants of a particular country or territory adopt and enforce for the establishment and maintenance of civil government, the preservation of social order, the distribution of justice, and the advancement of the general good ; or, it is that body of rules which a political society enforces by physical power for the protection of its members, in their persons and property, and the promotion of their happiness. Whatsoever rule of conduct is not enforced by the physical power of society is not law. It may be a rule of morals, or of courtesy, or of honor ; but it is not law. That conduct which the State requires of its citizens, or those within its jurisdiction (who are *quasi* citizens for the time being), and which it regards as of sufficient consequence to enforce by its physical power,

is civil conduct, and the rules by which it is prescribed constitute the law of that State. It matters not how it came to be the law, whether it was prescribed by an autocrat or a legislative body, or arose from mere custom and usage, or the decrees of the courts—if the physical power of society, that is, the State, is put forth for its vindication, it is law ; if not, it is not law. Sometimes popular opposition to a law may prevent its execution and paralyze the power of the State. This produces, so far as it extends, a relaxation of the bonds of society and a return to a lawless condition, but as soon as the public power can be restored, the reign of law returns.

With the exception of omitting that distinguishing characteristic of law, its enforcement by the physical power of the State, Blackstone's definition may be logically correct. The law-making power is necessarily the supreme power in a State ; the rules it enforces are presumed to be known, and may therefore be said to be prescribed ; and that they command what is right and prohibit what is wrong is a legal truism, though it is also true in a moral sense, inasmuch as the laws of a State are the final expression of the nation's sense of justice and political wisdom, developed from its history and experience, and formulated by its highest intelligence. So much, at least, may be said of the law, viewed in its most mundane and prosaic aspect, as practically exhibited in human affairs, without attempting to scale those sublime heights from which philosophy may take even a more ennobling view of the subject. Ulpian defines justice (or law in its essence) as "*Constans et perpetua voluntas jus suum cuique tribuendi.*" And Richard Hooker, a writer of great power and elegance, sums up his conclusion on the subject as follows : "Of law there can be no less acknowledged than that her seat is the bosom of God, her voice the harmony of the world ; all things in heaven and earth do her homage, the very least as feeling

her care, and the greatest as not exempted from her power ; both angels and men, and creatures of what condition soever, though in different sort and manner, yet all with uniform consent admiring her as the mother of their peace and joy.''

#### GENERAL DIVISION OF LAW.

The law extends not only to the relations and conduct of individuals toward each other, but to the organization of society itself, its form of government, its public institutions and works, and even to the mutual relations between the State and other States. The different subjects to which it is thus extended renders its division natural into public law and private law ; and that of public law into international law and constitutional law.

The laws relating to crimes are generally regarded as public law ; but it seems to me that they might properly be considered as belonging respectively to that branch of the laws, public or private, which is violated by the commission of the crimes. A man who takes my property may be a mere trespasser or a thief, according to the manner and intent with which he takes it, but it is equally a private injury to me ; punishable in the one case by damages for the injury, and in the other by imprisonment or corporal chastisement, with a return of the goods, if they can be found. The reason for calling the crime a public offense, committed against society itself, has always seemed to me too metaphysical. It is said that a crime, especially if it reaches the grade of felony, is a violation of the social compact, and tends to dissolve society ; or that it is an insult to the majesty of the sovereign ; but this is only in degree ; every violation of law may be characterized in the same manner, and the statement would be true to a certain extent.

International law consists of those rules dictated by natural justice, by long usage, or by treaties, which form



the law of intercourse between the State or nation, and other States or nations. Though international, it is enforced by each individual nation as its own law, there being no common judge to enforce it. And each nation, on its own responsibility, puts its own construction upon the law, at the risk of a conflict with other nations, if they should construe it differently. This law is to be found in the works of those sages of the law who have made international law their special study, and who have become generally recognized as authorities. They are sometimes called publicists, because international law is regarded as public law *par excellence*. Of this class are Grotius, Puffendorff, Bynkershock, Vattel, Wheaton, Phillimore, and others.

There is a branch of international law which is called private international law, which has respect to the rights and duties of persons who have relations personal, or by means of property or contract with different countries, whose laws conflict with each other in reference to the matter in hand; and it is the office of private international law to determine, according to the principles of justice, what rule should be followed. Ordinarily every man's rights and duties are determined by the law of the place where he resides. But he may be the subject of some other sovereign claiming his allegiance, or he may own property located in another country, or he may have contracts made or to be performed there; and it is the province of private international law to determine his rights and duties in all these cases. The validity and effect which shall be accorded in one country to acts done in another, such as transferring property, recovering judgments, constituting executors, guardians, &c., is a matter of comity between the two countries and their tribunals; and private international law determines when this comity should be exercised. A number of eminent writers have treated of this

subject, sometimes under the title of Conflict of Laws, and sometimes under that of Private International Law ; such as Savigny, Story, and your own learned townsman, Mr. Wharton. Chancellor Kent, in his Commentaries, touches briefly, but with masterly precision, the subject of international law in both of its aspects.

In this age, when the Atlantic Ocean has become a mere ferry, and foreign intercourse is so common, and in this country, where forty independent communities are so closely related by business connections of every kind, this branch of international law is of the greatest importance, and should be carefully studied by every American lawyer.

Constitutional law prescribes the form of government of a State, its general departments and their functions ; the political divisions of its territory, and the duties and powers assigned to each ; the various kinds of delegates and officers to consult for the public good and execute the public will, and the modes of appointing them ; in other words, the frame-work of civil society, and the functions of its several parts. The constitutional law of a country is sometimes written, sometimes unwritten, and sometimes partly the one and partly the other. In this country it is mostly written, partly in a direct and formal act of the people, under the name of a Constitution, and partly in organic laws passed by the legislature. The general grant of legislative power is deemed sufficient to authorize the legislative department to extend the organization of civil society to details which are not provided for in the outline drawn by the Constitution itself. Whatever law relates to a public function is constitutional in its character, whether it defines the powers of a governor or a constable, or directs the mode of passing laws or of exercising the elective franchise. It touches the organization of the body politic, and that organization is, subjectively, the Constitution of the State.

An appendix to constitutional law, not generally regarded as belonging to it, though relating to the duties and powers of public functionaries, is administrative law, which presides over the establishment and execution of those public institutions and works which are created or carried on for the benefit and protection of society, such as armies, navies, fortresses, sea-walls, light-houses, harbors, piers, bridges, highways, railroads, canals, mails, prisons, hospitals, poor-houses, asylums, universities, schools, and benevolent corporations, all of which, when emanating from public authority (as they mostly do), exhibit the majesty of the body politic in the energy of beneficent action, aiding, protecting, and benefiting all its members, and advancing human civilization. This subject is largely discussed by the French lawyers as a separate branch of public law, and some of their works are well worth the student's consideration. Ferriere's *Treatise on Public and Administrative Law* is a model of clear analysis, and is well worthy of being done into English, and studied in our legal institutions.

Private law consists of those civil rules and regulations which govern the private actions and mutual relations and dealings of all citizens, and of all other persons subject to the jurisdiction of the State. When we consider the innumerable relations and transactions which take place amongst men in society, it is apparent that the laws must necessarily be extensive and voluminous. In the simple times of old a few rules might have been sufficient, but in the present complex state of society, having so many industries, occupations, and interests, and presenting so many phases of human life, all requiring the protection of the laws, it is indeed wonderful that the civil law can be so all-embracing and omnipresent as to reach and provide for every exigency that can arise. But it does this and does it perfectly. It does it by means of a rigid and accurate

•

classification of human relations and acts—a classification based partly on nature, partly on custom, and partly on instituted or voluntary conditions. The most striking natural relations are those of husband and wife and parent and child; custom early established those of master and servant and guardian and ward, and that of magistrate and people grows out of the very construction of society. But there are innumerable relations which men voluntarily or involuntarily assume towards each other, either by conduct or by contract. If one injures another in person, reputation, or property, the relation of injurer and injured is established between them, imposing upon one the duty of satisfaction for the injury, and giving to the other the right to demand it. If two or more enter into a contract (permitted by the law) they mutually assume a contractual relation towards each other, binding each to the other, for the performance of his part of the contract, and a failure to perform involving the duty of satisfaction and the right to demand it. This is a mere general statement of what occurs every moment; but the variations of right and duty growing out of the infinite variety of facts and shades of difference in the many cases that occur, render the complicated mass of rules and principles necessary to meet and provide for all forbidding to the beginner. He must learn well the great principles of justice, and the system of legal analysis and classification, and then light will begin to break in upon the chaos, and all things will at last become easy and plain.

#### THE SUBJECT-MATTER OF LAW AND THE PLACE WHICH ITS STUDY OCCUPIES AMONG THE SCIENCES.

Having now described, in a general way, what law is, and what are its objects and uses, and its general divisions, let us stop a moment and take a little more accurate sur-

vey of it as a whole, as a subject of learned study, and as to the place it holds amongst the other studies to which men devote themselves, particularly those of a professional character.

Every science, or branch of human knowledge, has a subject-matter which it scrutinizes, studies, analyzes, and expounds, as to its substance, its accidents, its relations, causes, and effects, and the natural laws which govern its manifestations. The subject-matter of mathematical science is number and figure ; the subject-matter of astronomy is the heavenly bodies, and it explores their nature, their appearances, their positions, their motions, and the relations which they have to each other ; the subject-matter of geology is the structure of the earth, which is explored in its various strata of rocks, their relative super-position and age, their composition and contents, the remains of ancient vegetable and animal life imbedded in them, and the causes which have led to their production ; the subject-matter of natural philosophy is the mechanical forces of nature and the phenomena which they produce ; of botany, the vegetable kingdom ; of natural history, the animal kingdom. Man himself forms a subject of profound study ; his body, with its sustentation and preservation, forms the subject of physiology and medical science ; his mind and its operations form the subject of mental philosophy, including metaphysics ; his language forms the subject of philology, grammar, and rhetoric ; his relations to his Maker and the unseen world, including his moral relations to his fellow-men, form the subject of religion, or religious philosophy and ethics. All these subjects present vast and important fields of inquiry, worthy of profound study ; but none of them exceeds in importance the subject-matter of the science of law—civil society—that highest phase and outgrowth of humanity, without which men would be but savages ; without which, unless hedged about by divine

influences in some garden of Eden, none of the sweet and beautiful manifestations of human life could possibly exist.

CIVIL SOCIETY FORMED AND SUSTAINED BY LAW :  
WHICH IS ITS REAL OFFICE AND PURPOSE.

No doubt man is naturally a social being. Certain individuals, it is true, for the sake of wild freedom, or for some acquired disgust, may prefer to wander away from their fellows and lead isolated lives ; but take them as a race, men love company, and the mutual support and aid, sympathy, affection, and communication by language which company gives. They possess, however, selfish passions, which are often fierce and ungovernable ; and, under the most favorable circumstances in which they can be placed, society could not, for any length of time, be maintained on the voluntary principle, or under the influence of mere moral restraints. There must be government, there must be force, there must be a civil organization of some kind—that is, the organization of a *civitas* or State, wielding the concentrated power of the community. To this, if not naturally led by their instincts, men are compelled by necessity, as soon as they increase in numbers and possessions. They cannot separate. They must remain together, not only in obedience to their instincts of affection, communication, and sympathy, but for their mutual protection against other bodies of men who would otherwise drive them from their seats, or make them captives to their will. So that civil society is a necessity of our nature and of the conditions by which we are surrounded. And this is the subject-matter of our science, taken in its broadest sense. It is true that the political philosopher, the political economist, the statesman, and the legislator, as well as the lawyer, find in civil society the subject of their studies and

investigations; but what, after all, is the object of their studies, but to ascertain what are the best and most beneficial laws, and how the existing laws may be improved for better promoting human happiness? and what is this but taking a more lofty and extended view of the law itself? looking at it in reference to its objects and uses, and thereby comprehending more perfectly its spirit, its essence, and its application. In other words, it shows us that the profound student of law can never feel satisfied with his acquirements in the science until he is able to take philosophic and statesmanlike views of the subject to which it relates—the order of civil society—and of its bearings on human happiness.

We see, then, that in approaching the study of the law we approach a subject of living interest and importance, independently of its attractions as a professional calling. It is not merely dead books, and their contents, that we set about to learn, but a living thing—civil society—in its organization and its rules, under all phases of human experience, human intercourse, human activity, and human interest.

The student of medicine examines with minutest care the subject-matter of his science, namely, the human body; he scrutinizes it in all its parts; the functions of each part and its relations to the other parts; the things that affect it beneficially, and those that affect it hurtfully. It is his study from morning to night to ascertain its functions, its needs, its dangers, its injuries, and the modes and means of repairing them. So the student of law, in order to obtain a profound conception of his science, must, in like manner, study deeply the subject-matter of it—civil society—in its construction, its workings, its rules; in the solution of all questions of civil right or duty that arise in every situation in which a man can be placed, in every transaction in which he may be concerned; in the prescription of the proper

remedy for the assertion of every right, and for the prevention or redress of every wrong. For the law is everywhere, and extends to everything of human interest.

At first view, when we walk about amongst our fellow-men, we may not observe the omnipotent influence and controlling effect of the law. Its power is so subtle and all-pervading that everything seems to take place as the spontaneous result of existing conditions and circumstances. It is like gravitation in the natural world, which, whilst it governs and controls every movement, and produces all the order of the Universe, is itself unseen. It must be studied in its effects in order to understand its power. So with law in civil society. It is over, under, in, and around every action that takes place. Its silent reign is seen in the order preserved, the persons and property protected, the sense of security manifested; in the freedom of intercourse, in the cheerful performance of labor, in the confidence with which business is transacted, and trust is reposed by one man in another; in the peaceful and contented pursuit of trades and occupations, and the bestowal of services: all goes on cheerfully and smoothly, working out and interworking the constant evolution of human happiness—because of the ever-existing (though generally unrecognized) consciousness of the presence, the watchfulness, and the all-sufficient protection of the law. In ordinary conduct, conformity to its rules and requirements is pursued almost as a second nature; but in transactions requiring authentic evidence, greater knowledge, perhaps professional skill, is required; and when questions of ambiguity, complexity, and difficulty arise, which the parties themselves cannot amicably solve, then, of course, the skill of the lawyer, and perhaps the wisdom and authority of the judge, must be resorted to. But compared with the millions of transactions which take place, these ripples on the surface do not often occur. The mighty river of things generally



moves on with an undisturbed current ; but only because it is kept in its banks and regulated in its course by the power of law.

THE ANALYSIS OF CIVIL SOCIETY AND OF THE TRANSACTIONS THAT TAKE PLACE THEREIN FURNISHES THE MOST PRACTICAL GROUND OF ANALYSIS OF THE LAWS.

Since law is the bond and basis of civil society, and the platform on which, and according to which, all civil transactions are conducted and regulated, it follows that the only analytical division of the science which is practically useful is, and must be, largely based upon an analysis of civil society, the transactions that take place in it, and the relations of its various members to the whole and to each other.

Law itself, in its essence, cannot be analyzed ; it is simply the dictate of justice in the varied circumstances and relations of life. Those circumstances and relations may be analyzed and classified, and the dictates of justice in each case or class of cases may be ascertained and enunciated. In other words, not the law, but the subjects to which it is applied, are arranged into classes and under heads, and, having found the law applicable to each class or head, we speak as if we had analyzed the law itself.

Ulpian, the great Roman lawyer, said (as Cicero had, substantially, said before him) that the law itself has only three commands, "*honeste vivere, alterum non lædere, suum cuique tribuere ;*" "live rightly, do no wrong to another, give to every one his own ;" leaving it to be inferred that all the rest consists in the application of these fundamental principles to particular cases.

True, there are certain general rules or maxims of extensive application, each of which may furnish the subject of a chapter of law, showing how and in what cases and circumstances it is to be applied. Thus, the rule "*sic*

*utere tuo, ut non alienum laedas,*” is constantly applied to hundreds of cases which it would be tedious to enumerate, but the nature of which could be indicated by a few examples, such as this: If you conduct a stream on to your own land for the purpose of irrigation, you have no right to allow it to wet and injure the land of your neighbor lying below yours. The rule is a rule of justice, and may be treated of under a head or chapter of its own. But a collection of such general rules or maxims would not present a scientific arrangement of the law. They would stand isolated from each other, without completeness or symmetry, or any proper relation to, or connection with, each other. Several authors, as Noy, Wyngate, Francis, and Broom, have made collections of these maxims, and have commented upon them by showing the manner in which, and the kind of cases to which, they are severally applied; and these books are very useful in their way, and worthy of study; but they exhibit no analysis or arrangement of the law, or the science of the law. To make such an analysis or arrangement, we must resort, as before stated, to the subject-matter of the laws, civil society, and the various relations and transactions which it exhibits.

There is one general division, however, which runs through all the departments and branches of the law, which is not based on the subject-matter, but rather on the nature of things; it is that which considers the law under the three heads of *Jura, Injuriae, Remedia*—Rights, Injuries, and Remedies. They might be considered together, for every injury is a violation of some right, and has its appropriate remedy, or choice of remedies. But there are many injuries, or wrongs, which are deprivations of mere negative rights, and the injuries themselves assume a distinctive and prominent importance, making it desirable to subject them to a separate consideration; such as most *torts*, including trespasses, assaults, libels, slander, &c.

And again, the remedies of the law have such a general similitude, and are governed by such peculiar regulations, that they need to be distinctly and separately considered.

Another division, independent of the subject-matter, is that between law and equity—the latter being a particular modification of the law in many cases where its strict general rules would be inadequate to the purposes of justice. The system of rules and proceedings which are adopted by courts of equity for effecting the desired modification is treated of separately from the general system of the law.

With these exceptions, and perhaps one or two others that have escaped me, the study and science of the law is divided and subdivided, according to the subjects to which it is applied, and these embrace all the transactions and relations of society.

In the consideration of rights the principle of analysis to which I have referred is at once rendered manifest. First comes the Constitution and order of the Commonwealth itself; then, proceeding to private law, we first take up the personal rights and duties of individuals, their *status* as free or servile, as husbands and wives, parents and children, guardian and ward, corporations, &c; then comes up the consideration of property, and this we divide into, first, real or immovable, as land, and, second, personal, including chattels and contracts; and every contract furnishes a distinct head of law, so that we have the law of sale, of loan, of partnership, of bills of exchange, of promissory notes, of suretyship, of insurance, &c. And when we come to the department of injuries, or wrongs, we find it divided in like manner into many different heads, according to the nature of the wrong committed, each of which furnishes a distinct subject of investigation, and is treated of in separate books, as the law of libel, the law of slander, the law of assault and battery and trespass, the law of collisions, &c. In other words,

we find (what, from the nature of law, as we have considered it, we should naturally expect to find) that the analysis of the laws is based upon an analysis of civil society, and the transactions which take place in it.

IS THE KNOWLEDGE OF LAW, OR JURISPRUDENCE, A SCIENCE?

A question often mooted is whether law (meaning, of course, the knowledge of law or jurisprudence) is a science. If it is a science, it must have some necessary and fixed principles, different from the mere arbitrary regulations of a despotic will, which may be one thing or another, according to the legislator's whim. The knowledge of such an accidental set of rules could certainly never be elevated to the dignity of science. And if law is of that arbitrary and empirical character, jurisprudence, or the knowledge of law, is clearly not a science. But law is not arbitrary and empirical any more than justice itself is so. Ulpian declares jurisprudence to be "*divinarum atque humanarum rerum notitia ; justi atque injusti scientia.*"

JURISPRUDENCE A SCIENCE, BECAUSE LAW IS A NATURAL OUTGROWTH OF HUMANITY, AND NOT A MERE ARBITRARY SET OF RULES.

In view of what has already been said with regard to the nature of law, it seems to me clear that it is one of the natural and inevitable outgrowths of humanity, like language, like the family relation, like clanship ; I do not say like society, because society and law are so intimately connected that the hypothesis of one is the hypothesis of the other. Justice and right, like truth, are the same in all countries and amongst all peoples ; and as law is the expression by any particular people of its sense of justice, it must have a natural law of origin and growth similar in all States. Civil society is substantially the same thing in

all countries, and law, being the basis and exponent of civil society, must exhibit substantially the same general principles and the same features in all States. Each people may have some peculiar institutions of its own, arising from its peculiar circumstances or genius ; as, amongst the warlike tribes of Europe, in the middle ages, land was distributed and held upon the tenure of military service, and was made to descend to the eldest son as the person most capable of performing the service required. Of course, it will be expected that the peculiar genius of a people will find expression in their laws ; but human nature and the great mass of human actions are essentially the same amongst all peoples ; and the dictates of justice under like circumstances are ever the same. Therefore a system of laws growing out of the experience and exigencies of one people may be adopted, with but slight alterations, to the experience and exigencies of another. The laws of any State in this confederacy might easily be adapted to the wants of the people of any other State. As a matter of fact, the laws of England were adopted by all the old States and by most of the new ones, subject to such slight alterations as their condition and circumstances rendered necessary. And also, as a matter of fact, the laws of the Roman empire have again and again been drawn upon for supplying the imperfect system of English law with those rules of justice and right which had been educed and sanctioned by ages of Roman civilization. If we once concede that law is the voice of Justice, regulating the affairs of men in civil society, we cannot deny that it is, and must be, based upon uniform and permanent principles, and that it will be evolved in substantially the same manner, and in similar formulas, in every community. And such is, indeed, the fact. In hardly any community on the face of the earth is it necessary for a person to be learned in its laws in order to live a peaceable and quiet life ; all he has to do is to

follow the dictates of his conscience, and endeavor to do right, and he will be pretty sure to commit no offense against the laws. If there is one thing that mankind will have it is just laws. Society can no more subsist with unjust laws than it can without any laws. Even arbitrary and despotic sovereigns, however lawless themselves, generally take good care that the people shall have the benefit of good laws for the regulation of their domestic affairs.

Law, then, being the expression of man's sense of justice in the regulation of civil society, is not an arbitrary or empirical set of rules, but is founded upon immutable and eternal principles—the immutable and eternal principles of justice and right. It may differ in mere form and detail in different countries, but it is essentially the same in all wherever civilization prevails.

It seems to me, therefore, that there cannot be a doubt that jurisprudence is a science, and one of the grandest sciences upon which the human mind can be employed. At the same time, it must be acknowledged that the light of that science is but faintly revealed, and only in obscure glimmerings, to those who do not gaze profoundly into its depths, and acquire that legal insight which only deep study and reflection can give.

THE ELASTICITY AND EXPANSIBILITY OF LAW TO MEET  
THE GROWING WANTS OF SOCIETY, ANOTHER PROOF  
THAT JURISPRUDENCE IS A SCIENCE.

Another proof that law is not an arbitrary set of rules, but is an emanation of human nature, and subject to immutable laws of development, is the fact that it keeps pace with the growth and advancement of society, and expands and adapts itself to every phase of social progress, whether in a moral or a material direction. The law of to-day is as adequate to the wants of our advanced social and material condition as the law of five centuries ago was to the

restricted life and simpler habits of that period. And this principle of adaptation and expansion is inherent in the nature of law, and does not depend upon, and does not generally wait for specific legislation, though often aided and supported by legislation. It arises from the fact that law is the expression of justice as applied to the transactions of society. As those transactions increase and multiply they constantly demand the application of the rules of justice, or, as it is sometimes termed, the extension of old principles (which are nothing but the principles of justice) to their peculiar conditions, and hence arises a new expression of justice, and a new rule of law. For it is a primary and fundamental rule that law is founded on reason and justice, and that if no exact precedent can be found for deciding a case, it must be decided according to reason and justice and the analogy of previous cases most nearly resembling it. If a new instrument of trade comes into vogue, for example, a promissory note, it will not be long before general usage and convenience will originate rules and regulations as to its use and as to the rights and obligations arising upon it, which the courts (if wise and liberal in their views) will sanction as just and equitable, and which will soon acquire the force of law. If a new mode of conveyance and transportation is invented, for example, a railroad, with its steam locomotives and cars, it will not be many years before, by the judicial application of the principles of justice, already to some degree exemplified in other modes of travel and transportation, a code of railroad law will be built up answerable to all the requirements of the new circumstances. We elder members of the profession have seen this very thing take place in our own time, and could now exhibit to the astonished eyes of our great predecessors, Coke and Hale and Holt, if they were permitted to revisit the earth, almost entire systems of law which they never dreamed of as lying in unde-

veloped germ in the bosom of that common law which they loved so well ; undeveloped then, because the exigencies of society had not yet arisen which required their elimination and announcement. And this is the way that the common law of any country arises and is developed. It is the intellectual form, the specific idea and counterpart of the progress of society. To stop this expansion of the law would be equivalent to stopping the growth and advancement of society, and the very pulse of humanity.

When this judicial adaptation and expansion of the law becomes too slow for the progress of events, or would require too violent a change, the legislature interposes and enacts a new law amendatory of or additional to the old. Statute law and the natural growth of the common law go hand in hand to meet the new exigencies of life and business that are constantly manifesting themselves.

#### THE GROWTH OF LAW NOT TO BE SUPPRESSED BY CODES—USE OF CODES.

This law of development is universal. No matter what codes may be devised for the purpose of fixing the law, and making it unalterable, in the nature of things it cannot stay fixed. Frederick the Great, of Prussia, was the originator of codes in modern Europe. He supposed that he could settle the law as easily as he could control his legions. He had a contemptuous regard for lawyers and civilians ; and he directed his chancellor to draw up a code in which the whole law should be expressed in plain and terse propositions, which might be understood by all, and which would need no lawyer to explain them. Such a code he intended to establish as the perpetual and unchangeable law of Prussia. Accordingly, a code was prepared ; but its imperfections prevented its adoption in Frederick's day. It was only adopted in the reign of his



successor, after providing for the application of the principles of justice to new cases that might arise. This is the famous Landrecht of Prussia, which has produced innumerable commentaries for its explanation and application, and which, with all its pretensions, could not stop the progress of law, any more than it could stop the progress of human affairs.

The Civil Code of France was adopted in 1804, and at this day there are probably a thousand volumes of adjudged cases and commentaries on the code, which have all to be consulted in order to know what the law really is.

Codes are undoubtedly useful for the purpose of settling disputed and doubtful points, and giving to the citizens the ordinary rules of law in a compact and intelligible form; but they should not be allowed to usurp the prerogatives of justice itself, seated in man's bosom, by giving to the letter of the code the inexorable fixity of a statute, and thus reducing the exposition of the law to a question of philology and verbal criticism, instead of a question of reason and justice. Used as a statement of principles and rules applicable to cases clearly within their scope, and not as restraints upon the judge in reference to other cases which are not provided for, and which require a new application of principles, *i. e.*, the principles of right and justice governing analogous cases, codes may not only be admissible, but may be of great service in systematizing and perfecting the law. They should never be employed for the purpose of giving to the law a cast-iron fixity of form, and thereby repressing all progress and imposing a deleterious and smothering restraint upon society itself.

#### THE ROMAN LAW NOT A CODE, AS OFTEN SUPPOSED.

It has been supposed by some that the Roman law, as it has been transmitted to us, being in writing, is in the form of a code; but this is a mistake. The Roman, like the

English and our own, law consisted of common and statute law. The former was a growth of time, exactly like that of England, with small beginnings, and gradually expanding to meet the wants of civilization. It was founded on old constitutions, on the Twelve Tables, on Plebiscita, Senatus Consulta, edicts of the Prætors, responses of the juris-consults, Imperial rescripts, and long usage and custom. The only codes ever adopted in Rome were the Twelve Tables, adopted about four hundred and fifty years before Christ, and the Perpetual Edict of Hadrian, adopted one hundred and thirty-one years after Christ, four hundred years before the time of Justinian. The Edict, like the French Code, was the occasion of innumerable books of commentaries; and it was in these commentaries, and other treatises on the law composed by the great juris-consults of Rome, that the common law of Rome was to be found. A great body of statute law grew up at the same time, consisting mostly of Imperial Constitutions. The two made up the whole law of Rome. Justinian appointed a commission of able lawyers, with Tribonian, his Minister of Justice, at its head, to make, not a code, but a digest of the writings of the juris-consults, which had much the same authority as our volumes of adjudged cases. This was done by making extracts from the best writers, and arranging them into a system, under different heads or titles, and dividing the whole into fifty books. This is the Digest, or Pandect, equal in bulk, if translated, to about three volumes of Bacon's Abridgment, which it resembles more in character than any other book of our law. It contains the common law of Rome in the very words of her great jurists, with all their reasonings and illustrations; and if we except the Holy Scriptures, it is the greatest monument of wisdom which antiquity has bequeathed to us.

The next work of Justinian's Commissioners was what

is called the Code (Codex); but it is not a code in our sense of the word; it is a mere compilation of the existing statutes of the empire, arranged in systematic order, according to the plan of the Digest, and divided into twelve books.

The Institutes is a small book, altered from the Institutes of Gaius (which had been in use for four hundred years), and prepared for the use of students. It is divided into four books, and contains a summary of the law exhibited in the Digest and Code.

The Novels, or *Novellae Constitutiones*, are later statutes, mostly adopted during the reign of Justinian, for supplying deficiencies found to exist in the Digest and Code, or making amendments in the law. One of these novels, the 118th, is celebrated as being the law from which our statute of distribution of the personal estates of deceased persons was taken.

These four works, the Digest, Code, Institutes, and Novels, constitute the Corpus Juris Civilis of Rome. They exhibit precisely the same characteristics presented by our own laws as regards the gradual growth and progress of the law, and its adaptation to the changing circumstances and condition of society.

It is to be hoped that you will some day make the acquaintance of this splendid system of law, not merely as a matter of curiosity, but as the source and fountain from which much of the common law has been drawn, as well as an inexhaustible storehouse of principles, rules, and distinctions, which are susceptible of constant application to the circumstances of modern society, and the knowledge of which will be of signal advantage in the pursuit of your profession. Hitherto these magnificent monuments, except the Institutes, have remained untranslated into English, although the civilians of Oxford and Cambridge are now beginning the herculean task. But to read them

in their original terse and forcible Latin will, of itself, be accompanied with the great advantage of perfecting your familiarity with that tongue, which an accomplished lawyer cannot well be without.

But my object in referring to the Roman law is to show that it is not, as some have supposed, an exception to the general rule, that law is an outgrowth of human nature, and is subject to immutable laws of development according to the progress and necessities of civil society. From this general character of law, as before stated, I deduce an additional argument to those already advanced, that the knowledge of law, or jurisprudence, may justly be called a science.

AS A SCIENCE THE LAW CAN ONLY BE ACQUIRED BY  
LONG AND PATIENT STUDY.

But it is necessary to warn you that as a science it is not to be acquired in a day, nor in a year, but only by the "*lucubrationes viginti annorum.*" As in the creation, we may suppose that the light of the stars did not all burst upon man at a single moment, but came upon him from their distant chambers in successive beams one after another, according to their recondite stations in space, so in the study of law, one great principle after another comes to the yearning mind and overspreads it with light and gladness; and many long years may elapse before one can feel that he has really mastered the law, and fully obtained that "gladsome light of jurisprudence," spoken of by Lord Coke. There may be one or two men in a generation of startling genius, who, by some natural inspiration or instinct, become great lawyers at a bound and achieve a glorious career without any great study or seeming effort. But they appear like the summer tornado, without observation or premonition. They are a law unto themselves alone, and furnish no guide

or example for others. Ordinary men are not thus inspired ; it will not be safe for you to hope for any such inspiration. You must calculate on traveling the old dusty road which we have all traveled before you. You must look forward to hard toil and slow and steady acquirement. Unless you can make up your mind to this, you had better undertake some other pursuit. I do not wish to discourage you, but to set before you the truth. The reward of perseverance is sufficiently splendid to give you courage and hope ; but you cannot expect to realize it for many years to come, and those must be years of labor and study and patient expectation.

#### SOME SUGGESTIONS ON THE MODE OF STUDYING LAW.

It would be out of place for me to attempt to prescribe for you a routine of studies ; your learned and able professors are much more competent to do this than I am. But I may, without impropriety, make a suggestion or two as to the mode and manner of study, which seem to be entitled to your consideration.

Of course the matter and substance of your text-books are to be fully mastered and impressed upon the memory. This is taken for granted. The best mode of doing this undoubtedly is the constant use of the pen in making full abstracts, and often reviewing what is thus written, as well for the purpose of aiding the memory as for that of getting a clear view of the subject in all its relations. But what I would particularly impress upon you is the habit of mastering the language and forms of expression of your author. In mathematics a mental conception of signs and diagrams is chiefly important in the acquisition of geometrical truth ; the exact language of the propositions and demonstrations is not of vital importance. A mathematical professor will be satisfied with his student if he finds that he comprehends the mathematical ideas, without scrutinizing his style of

expression. But it is not so in the law. Here it is not only necessary to know the rule, but to know how to express it in appropriate language. There is no science in which the words and forms of expression are more important than the law. Precision of definition and statement is a *sine qua non*. Possessing it, you possess the law; not possessing it, you do not possess the law, but only the power of vainly beating the air with uncertain words which impress nobody, instruct nobody, convince nobody. In the law all the knowledge in the world without the power of expressing it in apt formulas and correct diction is useless to the possessor. This language may seem hyperbolic, but it is true. A lawyer without the power of clear and accurate expression is like a seventy-four gun ship grounded on a sand-bar, unwieldy, unmanageable, and the easy victim of any small craft of the enemy that happens to be abroad. I wish this sentence could be deeply lodged in your minds, to wit: It is of the utmost importance to a student of the laws to acquire, besides a knowledge of the law itself, the power of expressing it in correct and appropriate language, such as is found in books of authority. For correct and appropriate diction is as necessary to the lawyer as a knowledge of the law.

Some men have a natural gift of recalling the exact language of the books they read and master. Their word memory is exceptional, sometimes almost miraculous. But there are few who are thus gifted, and to most persons it is a laborious task to store up in their minds the accurate terms, phrases, and definitions of the law. The treasure to be secured, however, is worthy of the greatest pains.

Perhaps one of the best aids to the accomplishment of which I speak is to choose some author of pure and accurate diction, and make his work a *vade mecum*, until you have become so familiar with its contents that, although not absolutely committed to memory, the words and forms

of expression will spontaneously suggest themselves whenever you begin to speak or write on the subject. Of course, there can be no doubt what book should be chosen for this purpose. There is nothing to compare with the Commentaries of Sir William Blackstone in completeness of scope, purity, and elegance of diction and appositeness, if not always absolute accuracy of definition and statement. One of the greatest, if not the greatest, of forensic speakers, as well as lawyers, that I ever knew was the late Mr. George Wood, of New York—in his early days a leader of the bar of New Jersey. His discourse to the court was always grave, dignified, and commanding; his diction was chaste and pure, and his style was rich in correct legal phraseology; so that he seemed, when speaking, to be the personification of the law itself. He made no gestures, and but few references to authorities; he did not need authorities; you knew as he spoke that what he spoke was the law. All was reduced to such plain and simple principles, and enforced with such logical clearness of argument, in the chastest, as well as the richest and most appropriate legal diction, that he compelled the closest attention and carried conviction along with him to the end. I have often hung upon his lips with chained attention, even when opposed to him in the case, and can truly say that I never enjoyed a greater intellectual treat than in listening to his arguments. Now, I happen to have heard from one of Mr. Wood's contemporaries an account of the method which he pursued for acquiring his wonderful command of choice juridical diction.

It was his custom for many years in the earlier part of his professional life, when not over-burdened with business, to read a chapter of Blackstone of a morning and then to take a long walk, and repeat to himself all that he could remember of what he had read, even to the very words and phrases in those parts that were important, such

as definitions and the like. If not satisfied with the first trial, he would repeat the process on the succeeding day, and in this manner, chapter after chapter, he went through the Commentaries, until they were so perfectly mastered, both in matter and form, that he became almost a walking commentary himself.

His case illustrates the oft-repeated injunction, to "Beware of the man of one book." This injunction is based on a truth of much importance to the professional student. Perfect familiarity, perfect mastery, of any one good book is a mine of intellectual wealth, not merely, not so much, for the matter which is thus made one's own, as for the vocabulary, the diction, the style and manner of expression which is mastered and indelibly fixed in the mind. How many pulpit orators, and even secular speakers, have become noted for their eloquence by their familiarity with, and ready use of, the language of sacred Scripture. And when the one book mastered in this way is such a book as Blackstone's Commentaries, it is easy to comprehend what power and beauty may be acquired and laid by for future use in the display of forensic eloquence.

This method of constant and repeated study of a few good books gives one also a firm grasp of the principles of the law, as well as of the forms of expression. The particular books are not essential, if they are good books, and by authors of original authority. When a student at law I took up, out of the regular course, Gilbert on Evidence, the original edition, a small book, but full of principles and grounds of the law, after the manner of the great Chief Baron. I studied it carefully over and again, and I believe that I derived as much benefit from that little old book as from any I ever read, except, perhaps, Stephens on Pleading, which I studied in much the same manner. I conclude that it was not so much the particular books, as the manner of study, which produced a beneficial result.



Another branch of reading not comprised in the regular course, and which is productive of the greatest benefit, is that of great leading cases in the reports—here and there one—like that of *Twyne's Case* and *Shelly's Case* in Coke, *Coggs vs. Bernard* in Lord Raymond, *Miller vs. Race* in Burrow, &c., not forgetting the great constitutional cases decided in this country, in which Chief Justice Marshall delivered those profound opinions which have immortalized his name. The careful reading of a case—the whole of it, including the arguments of counsel—will enlarge one's knowledge of the law, strengthen the understanding, and furnish a key to the methods of juridical discussion in the courts.

THE STUDENT OF LAW MUST BECOME ACQUAINTED WITH  
THE STRUCTURE OF CIVIL SOCIETY, AND WITH HUMAN  
AFFAIRS AND BUSINESS.

But if I have succeeded in my object, I have impressed upon you the conviction that the law is not to be studied and learnt like a dead language, in books only ; but that it is a living object, embodied in and sustaining that civil society of which you are members, and manifested in its organic form, and in the rules and regulations by which it is ordered and made harmonious and conducive to the greatest human happiness.

All this may seem to be very common knowledge—almost home-spun truth. But home-spun truths often need to be impressed upon the attention. Their importance is frequently overlooked. One deduction to be drawn from the truth which I have endeavored to present is the importance, to a student at law, of having a knowledge of affairs, a knowledge of civil society, its constitution and doings ; a knowledge of what is taking place around him. He should know, as far as possible, the reason of everything. In other words, he should be wide awake, and,

with open eyes should watch this great drama of human life which is being acted in his presence, and not go dreaming around, with his head down, dwelling only and always upon the metaphysical quiddities of the law. These quiddities may be very good in their place ; but they should not be allowed to absorb the whole attention of the student, and entirely divert it from the fresh, green views presented by that living law which he is to apply to actual life around him, and which he can only understand in its true spirit by a wide and varied knowledge of that life as the material and groundwork of civil society. Of what use will it be to him to know all about the British Constitution, for example, if he does not understand our own Constitution, Federal and State? Of what use, to know the organization of the government and the courts of England, if he does not know that of our own government and courts? Probably you all know the number, the names, and boundaries of the counties in your own State ; but do you know who are the officers of each county, and what are their powers? Can you tell by what authority roads are laid out and bridges are built? Can you tell by what authority a telegraph pole is erected in front of your door? Are you acquainted with the powers of the Common Council of the city in which you live? A man of ordinary good intelligence finds out many of these things without suspecting that he is learning something of the law. He picks them up from the newspapers, from conversation, from everything that affords him information. He is wide awake to what is going on around him. His eyes are open. He takes in knowledge at every pore. So the law student should be. To put it in a homely manner, he should have "an inquiring mind." Ulpian, as before stated, says that jurisprudence is the knowledge of things human and divine, as well as the science of what is just and what is unjust. This is a broad definition, but it is suggestive. The

lawyer ought, indeed, to know almost everything, for there is nothing in human affairs that he may not, some time or other, have to do with. At least he ought to be acquainted with all those things which go to make up the form and body, the life and order of the society in which he lives. He ought to know its civil institutions and their several functions. He ought to know all those things about his country and his State which would enable him to speak intelligently of their institutions, their policy, and their public proceedings. He ought to know how ordinary matters of business are transacted ; the forms and meaning of bonds, promissory notes, bills of exchange, bank checks, drafts, leases, releases, ordinary deeds, policies of insurance, agreements. He ought to interest himself to learn the actual methods of doing business, not only in private counting-houses, in the market, and in the exchange, but also in the halls of city, State, and Federal legislation. A great mass of this sort of general knowledge and information can be acquired by one anxious to learn without interfering with the general course of his studies ; and it will throw great light on his studies. It will often enable him to understand and apply them when otherwise their use and application would not be recognized. The sort of knowledge to which I refer is largely to be found in the statute-book, and that, however much despised, is a book which ought always to be within the student's reach. It should be his *vade mecum*, not to the exclusion of scientific text-books, but as an adjunct and interpreter of them. The statute-book exhibits the actual institutions and regulations prevailing in the State at the present time.

One of the advantages of studying law in the office of a practitioner is the acquisition, to some extent, of the kind of knowledge to which I have referred. The student is there brought in contact with the business world, and the practical application of the law to actual cases. He copies

deeds, agreements, documents of every kind, as well as legal papers, and is often charged with business transactions that increase his general knowledge.

I do not underrate the study of law by scientific methods as it is pursued in this and other schools. This method of study is of the greatest value. It makes scientific lawyers. It gives general and harmonious views of the law. It awakens an interest for its profound depths. But whilst the science is studied here, its application to the *status*, the exigencies, and the wants of society may be learned, and best learned, by a study of the living subject itself—civil society—and the transactions that prevail in it; everything that exists and everything that passes about one in the social state.

I have urged this view upon your attention because I have often seen young men settle down into mere book-worms of the law, losing their interest in passing events and what is going on around them, and thereby becoming unadapted to the active professional duties of the lawyer, which exhibit him in his most useful character, and bring him the richest rewards.

#### THE LAWYER'S STUDIES FIT HIM TO TAKE A LEADING PART IN THE STATE.

These considerations lead us to another interesting view of our profession. The subject of the lawyer's studies necessarily makes him intimately acquainted with all the duties of the magistrate, as well as all the duties of the citizen; with the rules of conduct that actually prevail, and with the wants and necessities of the body politic requiring any change or modification of these rules. Of course, with this species of study and training, no class of the community is so well qualified as the lawyer to take a leading part in the affairs of the community, in the making

and in the administration of its laws, and in the execution of the powers of government. It is the legitimate and proper result of his studies and training. This is only true, however, when the lawyer takes a broad and liberal view of his profession, and regards it, as it should be regarded, as ancillary to the promotion of justice and right amongst men, and the general good of the State. The merely technical pettifogger, the *leguleius cautus*, is more unfitted than other men to counsel and govern the State, because the narrow and incorrect views which he takes of his profession rather lead him astray, to the promotion of mischievous devices and expedients, than to wise and prudent measures. He knows both too much and too little; too much to be modest, prudent, and conservative; too little to take wise and enlightened views. Hence it often happens, as the result of such unfortunate examples, that a popular jealousy and distrust of lawyers prevail in keeping them out of places of public trust.

How important, therefore, it is to themselves as a class, as well as to society at large, that the students of justice and right should be imbued with the principles of justice and right, so that the profession may take that high and noble position in the community which, when it is faithful to itself, is its just prerogative.

#### CONCLUSION.

The few suggestions that I have made with regard to the range of inquiry desirable in the study of law must not be taken as complete. In a single lecture I can only set forth a few things to be acquired or done that strike me as important, and that may not be obvious to the student. There are, of course, many others which I cannot dwell upon, such as general history, the history of the law, legal biography, political philosophy, political economy, and

many more, which the student must in time acquire in order to become an accomplished lawyer. To sum up all in one word, in order to be an accomplished lawyer it is necessary, besides having a knowledge of the law, to be an accomplished man, graced with at least a general knowledge of history, of science, of philosophy, of the useful arts, of the modes of business, and of everything that concerns the well-being and intercourse of men in society. He ought to be a man of large understanding ; he must be a man of large acquirements and rich in general information ; for he is a priest of the law, which is the bond and support of civil society, and which extends to and regulates every relation of one man to another in that society, and every transaction that takes place in it.

Trained in such a profession, and having these acquirements, and two things more (which can never be omitted from the category of qualifications), incorruptible integrity and a high sense of honor, the true lawyer cannot but be the highest style of a man, fit for any position of trust, public or private ; one to whom the community can look up as to a leader and guide ; fit to judge and to rule in the highest places of magistracy and government ; an honor to himself, an honor to his kind.











MAR 8 - 1954

